

HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BROOKS SPORTS, INC., a Washington
corporation,

Plaintiff,

v.

SPARC Group, LLC, a Delaware limited
liability company, AUTHENTIC BRANDS
GROUP, LLC, a Delaware limited liability
company, BB IPCO, LLC, a Delaware limited
liability company, BB OPCO LLC, a Delaware
limited liability company,

Defendants.

CASE NO. 2:20-cv-1491 RSM

**FIRST AMENDED COMPLAINT FOR
TRADEMARK INFRINGEMENT,
UNFAIR COMPETITION, TRADEMARK
DILUTION, AND DECLARATORY
JUDGMENT OF NON-INFRINGEMENT**

JURY TRIAL DEMANDED

Plaintiff BROOKS SPORTS, INC. (“Brooks”) files this FIRST AMENDED
COMPLAINT for TRADEMARK INFRINGEMENT, UNFAIR COMPETITION,
TRADEMARK DILUTION, and DECLARATORY JUDGMENT OF NON-INFRINGEMENT
against Defendants SPARC GROUP, LLC (“SPARC”), BB IPCO LLC (“BB IPCO”), BB OPCO
LLC (“BB OPCO”), and AUTHENTIC BRANDS GROUP, LLC (“ABG”), alleging as follows:

I. INTRODUCTION

1. Brooks, a leading maker of performance athletic footwear and apparel, brings this
action to defend its rights to its signature trademark: BROOKS. Defendants are a group of

1 opportunistic investors that purchased the Brooks Brothers¹ menswear business out of bankruptcy
 2 and immediately announced that they would “redefine” and “reinvent” the brand to focus on
 3 products such as sportswear and “athleisure” apparel. Building on a strategy adopted by Brooks
 4 Brothers immediately before the bankruptcy, Defendants have claimed rights to Brooks’
 5 standalone BROOKS mark for themselves in an attempt to benefit from Brooks’ brand identity
 6 and goodwill. And since this action was filed, Defendants launched a new Brooks Brothers-
 7 branded “Athletic-Inspired Collection,” replete with “athletic-inspired joggers” and “athletic-
 8 inspired sweat shorts,” that threatens to confuse and deceive consumers and dilute Brooks’ hard-
 9 won reputation as a premier performance brand. Brooks asks the Court to stop Defendants from
 10 unlawfully encroaching on Brooks’ trademark rights.

11 2. Despite the similarities between the names Brooks and Brooks Brothers, the
 12 brands successfully co-existed for over a century by maintaining distinctly separate brand
 13 identities and operating in different retail markets. Most fundamentally, Brooks has marketed
 14 itself as “Brooks” whereas Brooks Brothers has marketed itself as “Brooks Brothers.” As far as
 15 Brooks is aware, Brooks Brothers has never – throughout its 200-year history – sold or marketed
 16 any products bearing the standalone BROOKS trademark, while Brooks has consistently done so.
 17 Furthermore, Brooks is a world-famous performance athletic apparel and footwear brand whereas
 18 Brooks Brothers is primarily known for its men’s suits and business and formal wear. Brooks did
 19 not make tuxedos and Brooks Brothers did not make running gear – until now.

20 3. In recent years, Brooks has flourished and grown to become the premium
 21 performance running brand in the United States, known for its high-quality performance running
 22 shoes and athletic apparel. Meanwhile, Brooks Brothers has struggled, culminating in the 2020
 23 bankruptcy of the business’s then-owner, Brooks Brothers Group, Inc. (“Brooks Brothers
 24

25 ¹ In this complaint, the term “Brooks Brothers” will be used to refer to the business operated under the “Brooks
 26 Brothers” name, formerly by Brooks Brothers Group, Inc. and its predecessors, and now by the Defendants.

Group”).² Consumers have increasingly turned away from suits and ties, the heart of Brooks Brothers’ business. Prior to the bankruptcy, Brooks Brothers began to respond to this changing environment by offering more casual and athletic-inspired clothing; it even introduced an athletic shoe in 2018 that was virtually identical to a Brooks shoe.

4. As part of its attempt to reverse its declining fortunes, Brooks Brothers began to contend that it, rather than Brooks, had the right to use the standalone BROOKS trademark on apparel. In December 2019, Brooks Brothers, for the first time in its history, tried to register the standalone BROOKS word mark for its own use, declaring to the United States Patent and Trademark Office (“USPTO”) that it was using, or intended to imminently use, the BROOKS mark in commerce. Brooks Brothers also opposed Brooks’ registration of its BROOKS mark for use on apparel and shoes.

5. Finding its brand under attack, Brooks filed suit against Brooks Brothers Group in this Court in February 2020, and subsequently sought preliminary injunctive relief to prevent Brooks Brothers from infringing Brooks’ trademarks.³ Brooks Brothers Group counterclaimed, alleging that it had the superior right to the standalone BROOKS mark, based primarily on a 1980 agreement between the parties, despite the fact that Brooks Brothers had never used the standalone BROOKS mark on its products, either before or after the 1980 agreement.⁴ Just weeks after Brooks moved for injunctive relief—and before filing a response to Brooks’ motion—Brooks Brothers Group filed for Chapter 11 bankruptcy and the case was stayed.

6. Within weeks of the bankruptcy filing, the Brooks Brothers business was snapped up by SPARC, a joint venture between Defendant ABG and the mall operator Simon Property

² Madeline Stone, *Brooks Brothers was struggling even before the pandemic, as it became ‘out of step’ with a new generation’s business fashion sense*, Business Insider (July 8, 2020), <https://www.businessinsider.com/brooks-brothers-struggles-began-before-pandemic-fashion-shifted-2020-7>.

³ *Brooks Sports, Inc. v. Brooks Brothers Group, Inc.*, 2:20-cv-207-TSZ, Complaint (Dkt. #1), Motion for Preliminary Injunction (Dkt. #20). **EXHIBIT A** (Complaint).

⁴ *Id.*, Answer (Dkt. # 14). **EXHIBIT B** (Answer).

Group, Inc. (“Simon Property”).⁵ ABG is a licensing entity that buys intellectual property rights from companies in financial distress and licenses those rights to third-parties. ABG owns a “sprawling mix” of once-venerable brands including Sports Illustrated, Juicy Couture, and Barney’s department store, as well as the publicity rights of celebrities such as Marilyn Monroe and Elvis Presley. ABG makes money by licensing its stable of trademarks for use “on new products,” for example Sports Illustrated-brand CBD cream and protein powder.⁶ ABG and Simon Property previously partnered to purchase other ailing mall tenants out of bankruptcy—including both Forever 21 and Lucky Brands in 2020—and came together in this instance through their joint venture SPARC to purchase the Brooks Brothers business at a steep discount.

7. Defendants’ acquisition of Brooks Brothers intensified the threat to Brooks’ trademark rights. Defendants have maintained Brooks Brothers’ claim to the BROOKS mark—before the trademark office, during bankruptcy proceedings, and in reference to the earlier litigation—and they continue to oppose Brooks’ registration of its BROOKS mark.

8. Meanwhile, consistent with their past business practices, Defendants announced their intention to “monetize” their newly acquired intellectual property rights by expanding their use to new markets.⁷ Despite having owned the Brooks Brothers business for just a few months, Defendants have already forged new collaborations and made plans for licensing deals for the Brooks Brothers brand.⁸

⁵ SPARC is an acronym for Simon Properties Authentic Retail Concepts. Simon Property Group holds 50 percent interest in SPARC.

⁶ Sapna Maheshwari and Vanessa Friedman, *The Two Men Buying Your Favorite Retailers*, the New York Times (Sept. 8, 2020), <https://www.nytimes.com/2020/09/08/business/retail-bankruptcy-authentic-brands.html>.

⁷ Sanford Stein, *Sparc Group, The Simon Property Group/ABG Creation, May Well Reimagine the Future ‘Brandscape,’* Forbes (Aug. 20, 2020) (complete article on file with undersigned counsel), <https://www.forbes.com/sites/sanfordstein/2020/08/20/sparc-group-the-simon-property-groupabg-creation-may-well-reimagine-the-future-brandscape/?sh=18b3560c6057>; *Who Should Design Brooks Brothers*, GQ (Aug. 18, 2020), <https://money.yahoo.com/design-brooks-brothers-163324660.html>; Jean Palmieri, *The Brooks Brothers Playbook Includes More Sportswear, E-comm and Fun*, Women’s Wear Daily (Dec. 1, 2020), <https://finance.yahoo.com/news/exclusive-brooks-brothers-playbook-includes-050129922.html>.

⁸ Jean Palmieri, *The Brooks Brothers Playbook Includes More Sportswear, E-comm and Fun*, Women’s Wear Daily (Dec. 1, 2020), <https://finance.yahoo.com/news/exclusive-brooks-brothers-playbook-includes-050129922.html>.

9. Defendants' expansion plans involve moving the Brooks Brothers brand closer to the marketplace occupied by Brooks. Defendants have repeatedly told the press that they intend to extend the Brooks Brothers business into activewear and athleisure.⁹ They hired a new creative director as well as a new designer who describes the Fall 2021 collection as "beefing up sportswear" to take advantage of the activewear "trend."¹⁰ And just days before this filing, Defendants took a dramatic step in furtherance of this strategy, launching a Brooks Brothers-brand "Athletic-Inspired Collection" that includes "athletic-inspired joggers" "designed to move from workouts to lounging," "athletic-inspired sweat shorts," and an "athletic-inspired hooded sweatshirt" that is advertised as perfect for throwing "over a tee for a jog." The collection dominates the Brooks Brothers website homepage and is featured prominently on various Brooks Brothers social media platforms. These faux athletic clothes sold under the "Brooks Brothers" brand threaten to confuse and demoralize consumers accustomed to associating the "Brooks" name with high-quality performance athletic apparel.

10. In the face of Defendants' threats to its brand, Brooks brings this action for a declaratory judgment that Brooks, not Brooks Brothers, owns the BROOKS mark and has the right to use that mark in connection with footwear and apparel without unlawful interference from Defendants. Brooks further asserts claims for infringement of Brooks' famous federally-registered BROOKS and BROOKS-formative trademarks under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1); unfair competition and false designation of origin under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); dilution under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c); and substantial and related claims of unfair competition, trademark infringement, and trademark dilution under the statutory and common laws of Washington state.

⁹ *Who Should Design Brooks Brothers*, GQ (Aug. 18, 2020), <https://money.yahoo.com/design-brooks-brothers-163324660.html>; Jean Palmieri, *The Brooks Brothers Playbook Includes More Sportswear, E-comm and Fun*, Women's Wear Daily (Dec. 1, 2020), <https://finance.yahoo.com/news/exclusive-brooks-brothers-playbook-includes-050129922.html>.

¹⁰ Jean Palmieri, *The Brooks Brothers Playbook Includes More Sportswear, E-comm and Fun*, Women's Wear Daily (Dec. 1, 2020), <https://finance.yahoo.com/news/exclusive-brooks-brothers-playbook-includes-050129922.html>.

II. THE PARTIES

11. Brooks is a Washington corporation with its principal place of business and flagship retail store located at 3400 Stone Way North, Suite 500, Seattle, Washington 98103 (“Brooks Flagship Store”). Brooks markets and sells performance athletic footwear and apparel under the BROOKS trademark.

12. SPARC is a Delaware limited liability company. SPARC, a joint venture between ABG and Simon Property Group, Inc., purchased the Brooks Brothers business out of bankruptcy in August 2020. SPARC, on its own behalf and through its subsidiaries, is responsible for the Brooks Brothers operations, including retail, wholesale, and e-commerce.

13. ABG is a Delaware limited liability company. ABG controls the Brooks Brothers trademarks, acquired by SPARC out of bankruptcy and assigned to BB IPCO. ABG is also responsible for all licensing partnerships, brand development, and marketing of the acquired Brooks Brothers brand.

14. BB IPCO is a Delaware limited liability company. BB IPCO is the assignee of some or all of the intellectual property of Brooks Brothers, including its registered trademarks.

15. BB OPCO is a Delaware limited liability company. BB OPCO is operating some or all of the Brooks Brothers business, including the Brooks Brothers website.

16. ABG and BB IPCO share a physical address at 1411 Broadway, 21st floor, New York, New York, 10018.

17. SPARC and BB OPCO share a physical address at 125 Chubb Ave, Fl. 5, Lyndhurst, New Jersey 07071.

III. JURISDICTION AND VENUE

A. SUBJECT MATTER JURISDICTION

18. This Court has subject matter jurisdiction over this action under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338 because this action arises under the federal Lanham Act. This Court has supplemental jurisdiction over the causes of action under Washington state law because

those causes of action are substantially related to the causes of action over which this Court has original jurisdiction and are part of the same case and controversy, pursuant to 28 U.S.C. §§ 1338(b) and 1367(a).

19. This Court also has subject matter jurisdiction over this action under 28 U.S.C. § 1332, because the matter in controversy exceeds the value of \$75,000, exclusive of interest and costs, and is between citizens of different states. Brooks is a Washington state corporation with its principal place of business in Washington state. SPARC and BB OPCO are both Delaware limited liability companies with their principal place of business in New Jersey. ABG and BB IPCO are both Delaware limited liability companies with their principal places of business in New York.

20. The Court has subject matter jurisdiction over Brooks' claim for declaratory judgment of non-infringement pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202 and for the reasons set forth in the Seventh Claim for Relief, incorporated herein by reference.

B. PERSONAL JURISDICTION

21. Defendants market, advertise, offer, and/or intend to offer infringing goods and services to Washington residents and persons in Washington, including through the Brooks Brothers website and at least one Brooks Brothers retail store located in Washington state.

22. Defendants employ dozens of employees in Washington state in connection with the Brooks Brothers business. Among other things, the employees solicit and consummate or intend to solicit and consummate sales of infringing goods in the Brooks Brothers brand retail store located in Washington state. Each of the Defendants actively participates in the Washington activities of the Brooks Brothers business.

23. ABG, SPARC, and BB OPCO have an immediate intent and capacity to market and/or presently do market, advertise, and solicit sales of infringing goods in Washington state

1 through the Brooks Brothers-brand retail store and in other third-party retail stores located in
2 Washington state.

3 24. ABG, SPARC, and BB OPCO operate an interactive website and knowingly send
4 or intend to imminently send direct solicitations via e-mail to Washington state residents and
5 others in Washington to solicit the sale of its infringing goods and services.

6 25. According to public statements, BB IPCO licenses the acquired trademark rights to
7 SPARC, which has an immediate intent and capacity to and/or presently does market, advertise,
8 and solicit sales of infringing goods in Washington state through the Brooks Brothers-brand retail
9 store and in other third-party retail stores located in Washington state.

10 26. Defendants are seeking, and purport to be entitled to, the exclusive right to use the
11 BROOKS mark for retail and online retail services featuring the sale of footwear and apparel, in
12 Washington state as well as in the rest of the United States.

13 27. Defendants know that Brooks is headquartered with hundreds of employees in
14 Washington state; operates two brick-and-mortar Brooks stores in Washington state; has retail
15 marketing, advertising and sales at Expo events and “pop-up” stores in Washington state; and that
16 harm to Brooks will be felt in Washington state.

17 28. By filing its motion to dismiss without challenging personal jurisdiction, SPARC
18 consented to personal jurisdiction in the instant action. Brooks Brothers Group did the same in
19 the earlier litigation, by filing its Answer without challenging personal jurisdiction.

20 29. This Court has specific personal jurisdiction over Defendants because they have
21 committed, and/or have the immediate intention and capacity to commit, willful acts of trademark
22 infringement, unfair competition, and trademark dilution in Washington state, and have purposely
23 availed themselves of Washington law by owning and/or operating retail stores in Washington
24 state, marketing and selling products in other retail stores in Washington state, and intentionally
25 soliciting and consummating sales with Washington state residents and other persons in
26 Washington through the Brooks Brothers’ highly interactive website.

C. VENUE

30. Venue is proper under 28 U.S.C. § 1391(b)(2).

31. Brooks offers its goods for direct sales to consumers under the trademark BROOKS through its website, which is operated, developed, tested and maintained by Brooks employees in Washington state; the Brooks Flagship Store; its retail outlet store located at 24110 Bothell-Everett Hwy, Bothell, WA 98021 (“Brooks Outlet Store”); Brooks-branded stores at Expos in this judicial district; and in retail “pop-up” stores located in this judicial district. Brooks has completed several hundred thousand sales in this judicial district through these channels.

32. Defendants are transacting business within this judicial district and intend to commit the acts complained of in this judicial district. Defendants own and/or operate retail stores and market and sell goods and services in other third-party retail stores within this judicial district and do business using the highly interactive Brooks Brothers brand website in this judicial district with persons in Washington and with Washington residents. Defendants purport to have exclusive rights in trademarks used by Brooks in this judicial district. Defendants have committed and intend to commit the acts described in this First Amended Complaint in this judicial district. Accordingly, Defendants’ acts have been aimed at and felt within this judicial district.

33. By filing its motion to dismiss without challenging venue, SPARC consented to venue in this action. Brooks Brothers Group consented to this venue in the earlier litigation as well.

IV. FACTS


A. Brooks’ Famous Marks

34. Brooks was founded in 1914. Since then, it has grown from a small, family-owned shoe factory to become a premium global brand for performance athletic footwear, apparel, and accessories.



35. Brooks has always been known to the world as Brooks. For the past century, Brooks has made widespread, continuous, and exclusive use of the BROOKS mark to identify its goods and services. Brooks owns valid and subsisting federal statutory and common law rights in the BROOKS mark as well as BROOKS-formative marks in connection with footwear, apparel, and accessories, and retail store and online store services for the same, including many registered trademarks (collectively, the “Brooks Marks”).

36. For example, Brooks is the owner of federal registrations for BROOKS and BROOKS-formative marks for athletic footwear, apparel, and accessories (the “Registered Brooks Marks”). The Registered Brooks Marks include the BROOKS mark on its own as well as BROOKS alongside its chevron symbol. Four of these marks are incontestable.¹¹ A sample of the Registered Brooks Marks is attached to this First Amended Complaint as **EXHIBIT C** and is incorporated herein by reference.

37. Among others, Brooks’ registered marks include:

Trademark	Category	Date
BROOKS	Athletic shoes.	Registered in the United States since July 1981.
BROOKS and Heritage Design 	Athletic clothing, namely, shirts, pants, jackets, hats, caps, shirts, tights, and hosiery and athletic footwear.	Registered in the United States since April 1992.

¹¹ A trademark achieves incontestable status five years after the mark has achieved registration on the Principal Register of the Patent and Trademark Office. 15 U.S.C. §§ 1064–65. Once a trademark becomes incontestable, the grounds under which the trademark owner’s rights in the mark may be challenged are limited by statute. *Id.*

<p>BROOKS and Path Design</p> 	<p>Footwear, shoes; athletic clothing, namely, gloves, mittens, hats, headbands, jackets, jogging suits, pants, shirts, shorts, socks, t-shirts, tank tops, tights, track suits, visors, warm up suits, waterproof jackets and pants, wind resistant jackets.</p>	<p>Registered in the United States since November 2014.</p>
<p>BROOKS Below Chevron Oval Design</p> 	<p>Clothing, namely, shoes, socks, footwear.</p>	<p>Registered in the United States since December 2001.</p>

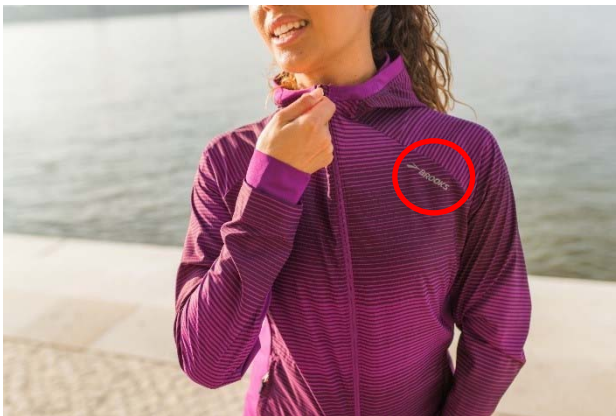
38. Brooks also has international registered BROOKS and BROOKS-formative trademarks for footwear, apparel, and accessories (the “International Registered Brooks Marks”), which it uses in connection with its worldwide sales. Among others, Brooks has registrations for the standalone BROOKS mark for use on apparel in Australia, Austria, Bahrain, Brazil, China, France, Japan, Mexico, Morocco, New Zealand, Russia, Saudi Arabia, South Africa, Switzerland, Taiwan, Tangiers, Thailand, Ukraine, the United Kingdom, Uruguay, and Venezuela. A sample of the International Registered Brooks Marks is attached to this First Amended Complaint as **EXHIBIT D** and is incorporated herein by reference.

39. Brooks makes prolific use of the Brooks Marks. Brooks uses the Brooks Marks throughout the United States and worldwide to offer its goods and services online, in stores, in over 5,000 third-party retail stores (including fifty in Washington state) as well as in connection with outreach and sporting events in the community. Some representative examples of Brooks’ use in commerce of the Brooks Marks include:

a. The Brooks Marks on shoes:



b. The Brooks Marks on apparel:



c. The Brooks Marks on accessories:



d. The Brooks Marks on packaging for goods and to offer services:



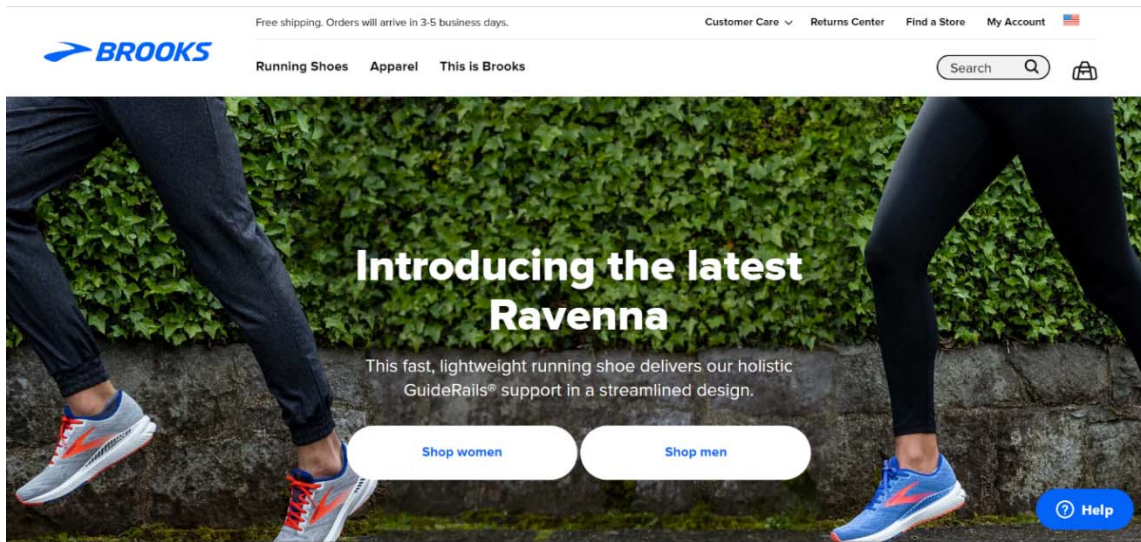


40. Brooks offers its goods for direct sale to consumers under the Brooks Marks through its website located at www.brooksrunning.com, as well as at Brooks-branded retail stores, at Brooks-branded stores at Expos for athletic and fitness events in cities across the United States, and in numerous retail “pop-up” stores located throughout the United States. Brooks uses the Brooks Marks in those venues as well, including:

a. The Brooks Marks on the Brooks Flagship Store:



b. The Brooks Marks on its website:



41. Brooks also uses its Brooks Marks to represent itself in the community. Brooks operates and supports community engagement events such as the November Project (a nonprofit dedicated to building communities through free workouts); the Brooks Trailhead Running Club (which has over 600 members and has regular group runs starting and ending at its flagship retail store called the “Brooks Trailhead”); the Seattle Running Club (which has several hundred active members); the annual Brooks PR Invitational (an annual invitation-only track and field contest for the top high school athletes in the country that is held at the University of Washington’s Husky Stadium); and the Seattle Rock and Roll Marathon (featuring races of various distances including a marathon that starts and finishes at Seattle Center, taking runners through downtown Seattle, Fremont, over the Ballard Bridge, and past Kerry Park). Brooks was a supporter of the 2018 USA Special Olympics and sponsored two athletes at the games. Brooks sponsors the Brooks Beasts, a Seattle-based professional running team. It also operates and/or supports approximately 25 races and other major events in the United States each year. Representative photographs of these events are shown below:



42. Brooks offers a complete line of state-of-the-art running shoes, apparel, and accessories under the Brooks Marks and consumers recognize and trust the Brooks Marks as indicators of quality and excellence. The Brooks Marks have acquired incalculable distinction, reputation, and goodwill belonging exclusively to Brooks.

43. Brooks has invested time, money, and other resources to grow the Brooks brand. In the last ten years alone, Brooks spent over \$48 million on research to pioneer developments in

1 design and materials and to ensure its products are top of the line. Brooks has spent more than
 2 \$424 million dollars since 2011 on marketing its products. These efforts were not in vain;
 3 industry commentators have repeatedly recognized and praised Brooks for its athletic footwear
 4 and apparel and Brooks Marks-bearing products have been named Editor's Choice "best running
 5 shoe," "best running shorts," "best sports bra," "best workout hoodie," and more from *Outside*,
 6 *Men's Health*, *Women's Health*, *Fit Bottomed Girls*, *Trail Runner*, *Runner's World*, *Trail Sisters*,
 7 *Esquire*, and *Self* magazines.

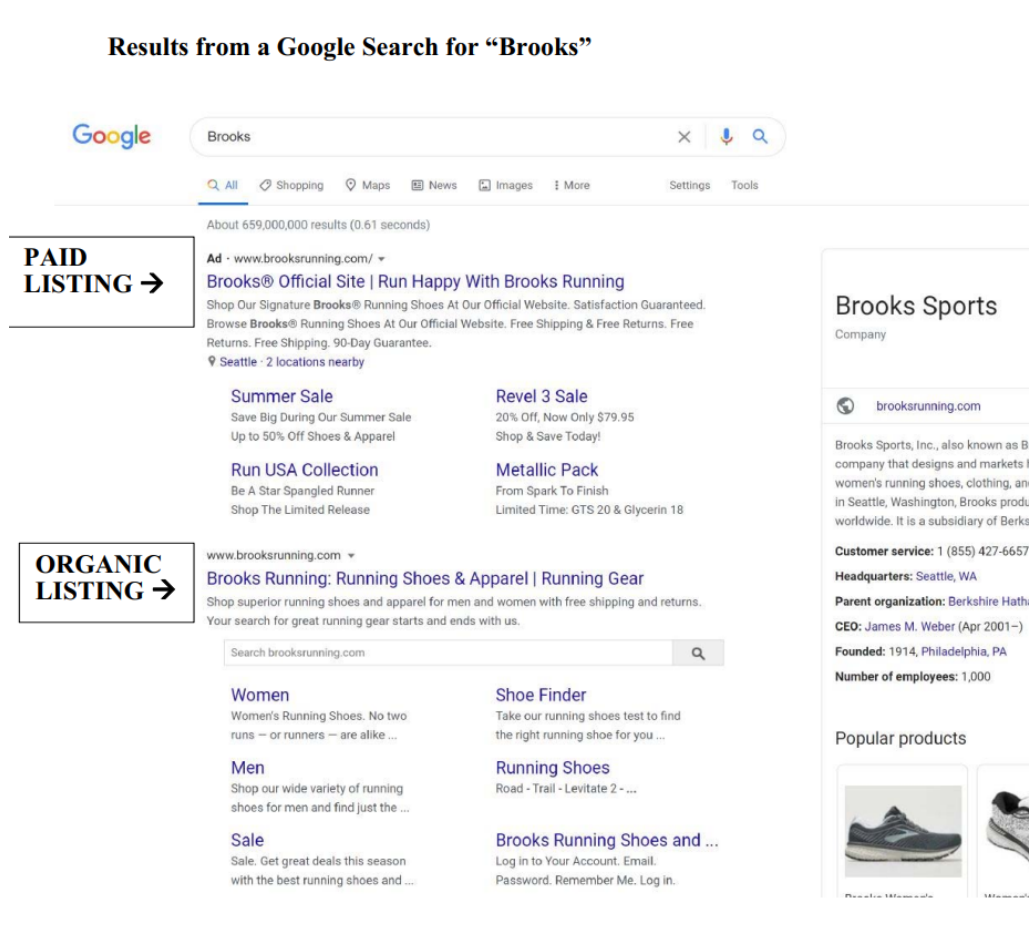
8 44. Brooks' products have been an enormous commercial success with runners and
 9 non-runners alike. Brooks has been the top-selling running shoe brand in specialty running stores
 10 since 2011. Brooks' reputation for performance high-quality and innovative running shoes
 11 extends to footwear and apparel for consumers interested in active lifestyles and fitness. In fact,
 12 over half of Brooks' sales are to consumers who do not consider themselves to be runners.

13 45. Brooks sold more than 14 million units of its goods in 2020 worth over \$1.5 billion
 14 dollars in consumer purchases at retail, all bearing a Brooks trademark. More than \$25 million of
 15 that total was derived from sales in Washington state. Brooks has completed several hundred
 16 thousand sales to Washington state residents through its website, the Brooks Flagship Store, the
 17 Brooks Outlet Store, Brooks-branded stores at Expos for athletic and fitness events, and in "pop-
 18 up" retail stores.

19 46. The Brooks Marks are distinctive to both the consuming public at large and to
 20 consumers in Brooks' market. This is particularly true online. Over the past decade, internet sales
 21 have generated a significant and growing share of Brooks' revenues. In 2020, approximately 55%
 22 of Brooks' retail sales came from online channels. Since March 2020, as the response to the
 23 COVID-19 pandemic closed most retail stores, Brooks' online sales surged. Online sales in the
 24 United States from March through December 2020 were approximately 81% higher than the same
 25 period in 2019. Every product that Brooks advertises or sells on the internet is branded with a
 26

Brooks trademark, and consumers looking for Brooks products can find them by typing “Brooks” into a search engine.

47. Brooks dominates internet search results for the query “Brooks.” For example, running a Google search for Brooks in incognito mode (so that the browser does not tailor search results based on stored data) pulls up the following result:



B. The Brooks Brothers Marks

48. The Brooks Brothers business has been in operation since the 1800s. Whereas Brooks is known as Brooks and recognized for its athletic footwear, apparel, and accessories, Brooks Brothers is known to consumers as Brooks Brothers and associated with its traditional ready-to-wear fashion apparel and tailored business and formal wear. Brooks Brothers primary

1 market—making up 80% of its sales—has been classic men’s wear.¹² Specifically, consumers
 2 know Brooks Brothers for its suits, ties, collared shirts, and leather oxford shoes.

3 49. Until 2019, when it represented to the USPTO that it intended to use the stand-
 4 alone BROOKS mark on apparel, Brooks Brothers had, to the best of Brooks’ knowledge, never
 5 used the standalone word BROOKS as a trademark in connection with the sale or offer for sale of
 6 its goods or services. Until recently, Brooks Brothers also did not sell or offer for sale athletic or
 7 athletic-related goods or services (with the exception of its golf polo shirts) under any trademark.

8 50. Brooks Brothers had its own family of marks that it used on its products (the
 9 “Brooks Brothers Marks”). The Brooks Brothers Marks include registered marks for BROOKS
 10 BROTHERS and other marks that include “Brooks Brothers,” such as
 11 BROOKSBROTHERS.COM, BROOKS BROTHERS FACTORY STORE, BROOKS
 12 BROTHERS WOMEN, BROOKS BROTHERS COUNTRY CLUB, and the scripted BROOKS
 13 BROTHERS logo.

14 51. The Brooks Brothers Marks also include certain registered trademarks that replace
 15 the word “brothers” with another word, for example BROOKSTWEED and BROOKSCOOL (the
 16 “Combination Marks”). In connection with apparel, Brooks Brothers has typically used these
 17 BROOKS BROTHERS Combination Marks as secondary marks along with the Brooks Brothers
 18 name to denote specific fabrics or subcategories of Brooks Brothers-brand products. For
 19 instance:

20
 21
 22
 23
 24
 25
 26 ¹² Teri Agins, *With a Glance Backwards, Brooks Brothers Looks to the Future*, the New York Times (Apr. 21, 2018), <https://www.nytimes.com/2018/04/21/business/brooks-brothers-looks-to-the-future.html>.



52. Throughout its history, *Brooks Brothers has never held a single trademark registration for the standalone BROOKS mark on any class of goods or services.*

C. Past Disputes Between Brooks and Brooks Brothers

53. After Brooks entered the running shoe market in earnest in the 1970s, it applied to register the BROOKS trademark for use with athletic shoes. Brooks Brothers opposed the application on the grounds that “BROOKS” was confusingly similar to “Brooks Brothers.” The parties resolved this dispute by agreement and Brooks Brothers dismissed its opposition to Brooks’ registration of the BROOKS mark. **EXHIBIT E** (the “1980 Agreement”). In addition to resolving the registration dispute, the 1980 Agreement created a framework aimed at avoiding certain conflicts. Brooks Brothers agreed not to object to certain trademark uses and registrations by Brooks, and Brooks agreed not to object to certain trademark uses and registrations by Brooks Brothers.

54. For a number of years, the 1980 Agreement served its purpose of minimizing conflicts between Brooks and Brooks Brothers throughout the world. Brooks sold its athletic footwear, apparel, and accessories under its Brooks Marks and Brooks Brothers sold its ready-to-wear and formal fashions under its Brooks Brothers Marks. Notably, during the years from 1980 to 2018, Brooks filed numerous trademark registrations for the standalone BROOKS trademark on athletic footwear and apparel in countries throughout the world. During these years, Brooks

1 Brothers never sought to use or register the standalone BROOKS mark on any class of goods or
2 services.

3 55. Meanwhile, as consumers increasingly turned to active-lifestyle and athletic-inspired
4 footwear and apparel for everyday wear—and even for business wear—the market for traditional
5 suits, ties, and ready-to-wear and tailored clothing dwindled. In the last decade, sales of athletic-
6 inspired footwear and apparel grew by double digits.¹³ Along with many other retailers in its
7 industry, Brooks Brothers struggled as its key market shrank.¹⁴

8 56. Brooks Brothers' challenges were compounded by the rise of e-commerce and the
9 diminishing importance of brick-and-mortar stores. In the early 2000s, Brooks Brothers unwisely
10 doubled down on the brick-and-mortar strategy, vastly expanding its physical locations in the
11 United States and worldwide. By 2018, Brooks Brothers had 300 stores nationally (up from 160
12 in 2001) and 600 stores globally (up from around 235).¹⁵ In contrast, Brooks was growing its
13 internet sales and by 2020, 55% of Brooks' retail sales in the United States came from online.
14 Brooks was on the right side of industry trends. Industry-wide, online apparel sales increased from
15 almost nothing in 2000 to nearly 40% in 2019 – before the global pandemic further boosted
16 ecommerce.¹⁶

17
18
19
20 ¹³ George Arnett, *The future of athleisure lies in the workplace*, Vogue Business (May 21, 2019),
<https://www.voguebusiness.com/consumers/the-future-of-athleisure>.

21 ¹⁴ Madeline Stone, *Brooks Brothers was struggling even before the pandemic, as it became 'out of step' with a new*
generation's business fashion sense, Business Insider (July 8, 2020), [https://www.businessinsider.com/brooks-](https://www.businessinsider.com/brooks-brothers-struggles-began-before-pandemic-fashion-shifted-2020-7)
22 [brothers-struggles-began-before-pandemic-fashion-shifted-2020-7](https://www.businessinsider.com/brooks-brothers-struggles-began-before-pandemic-fashion-shifted-2020-7).

23 ¹⁵ Erin White, *Retail Brand Buys Brooks Brothers from Marks & Spencer for \$225 Million*, Wall Street Journal
(Nov. 23, 2001) (complete article on file with undersigned counsel),
24 <https://www.wsj.com/articles/SB1006468068166373960>; Andria Cheng, *How 200-Year Old Brooks Brothers is*
Embracing AI and Millennials – And Why it May Cozy up to Amazon, Forbes (Nov. 30, 2018) (complete article on file
25 [with undersigned counsel](https://www.forbes.com/sites/andriacheng/2018/11/30/how-200-year-old-brooks-brothers-is-embracing-ai-millennials-and-why-it-may-snuggle-up-to-amazon/?sh=2fb9fe3b321c)), [https://www.forbes.com/sites/andriacheng/2018/11/30/how-200-year-old-brooks-brothers-](https://www.forbes.com/sites/andriacheng/2018/11/30/how-200-year-old-brooks-brothers-is-embracing-ai-millennials-and-why-it-may-snuggle-up-to-amazon/?sh=2fb9fe3b321c)
[is-embracing-ai-millennials-and-why-it-may-snuggle-up-to-amazon/?sh=2fb9fe3b321c](https://www.forbes.com/sites/andriacheng/2018/11/30/how-200-year-old-brooks-brothers-is-embracing-ai-millennials-and-why-it-may-snuggle-up-to-amazon/?sh=2fb9fe3b321c).

26 ¹⁶ Digital Commerce 360, 2020 Online Apparel Report, [https://www.digitalcommerce360.com/product/online-](https://www.digitalcommerce360.com/product/online-apparel-report/)
[apparel-report/](https://www.digitalcommerce360.com/product/online-apparel-report/).

57. In a belated attempt to adapt to the changing tide, Brooks Brothers increased its offering of athletic or athletic-inspired apparel and shoes, including online. For example, Brooks Brothers began selling vests and half-zip sweaters with an athletic feel:

Brooks Brothers' Vest



Brooks Brothers' Colorblock Half Zip



58. In or around 2018, Brooks Brothers began offering its so-called "Athletic" shoes on its website:

Brooks Brothers Rewards

MEN WOMEN KIDS RED FLEECE HOME SALE MAGAZINE GIFT CARDS

STYLE

- ☐ Boat Shoes
- ☐ Boots & Galoshes
- ☐ Driving Moccasins
- ☐ Lace-Ups
- ☐ Loafers
- ☐ Monk Strap
- ☐ Sandals & Flip Flops
- ☐ Slippers
- ☒ Sneaker & Athletic

MATERIAL

- ☐ Canvas
- ☐ Cotton
- ☐ Exotic
- ☐ Leather & Suede

COLLECTION

- ☐ 1818
- ☐ Red Fleece

Suede Wingtip Sneakers
\$ 298.00
Free Standard Shipping on orders \$250 or more
★★★★★

Penny Sneakers
\$ 118.80 - \$ 198.00
Free Standard Shipping on orders \$250 or more
★★★★★

Sporty Sneakers
\$ 198.00
Free Standard Shipping on orders \$250 or more
★★★★★

Leather High-Top Sneakers
\$ 128.00
Free Standard Shipping on orders \$250 or more
★★★★★

RED FLEECE

BACK TO TOP

FEEDBACK

Sunday, February 9, 2020

59. The Brooks Brothers' Sporty Sneaker was nearly identical to a Brooks shoe. It copied the distinctive elements of Brooks' Heritage Collection shoe, including: the running-inspired design; the rubber outsole below a foam midsole extending up to the front of the toe box; the sole curving up towards the toe; the prominently raised heel tab; a leather heel tab on fabric upper; a heel cup wrapped in additional fabric; a lace guard with a rounded bottom; the lace guard, heel cup, and toe cap in a different shade but the same color as the upper.



60. Around the same time that Brooks Brothers was attempting to pivot its brand closer to the markets in which Brooks operated, Brooks Brothers began to pursue the BROOKS mark for its own use.

61. In 2018, Brooks Brothers opposed Brooks' registration of the BROOKS mark for athletic footwear and clothing in the United States. **EXHIBIT F** ("2018 Opposition"). Brooks already own an incontestable registration for the standalone BROOKS mark in the United States for use on athletic shoes; it had multiple registrations for the use of BROOKS with a symbol; and it had long used BROOKS (both alone and with a symbol) in the United States for its footwear, apparel, and accessories. Brooks had also registered the standalone BROOKS word mark for use on athletic apparel and other items in dozens of countries. Despite this history, Brooks Brothers

1 contended that Brooks' continued use of the BROOKS mark would interfere with Brooks
2 Brothers' trademark rights.

3 62. In late 2019, Brooks Brothers, for the first time in its 200-year history, filed its own
4 federal trademark application seeking the exclusive right to use the standalone BROOKS
5 trademark. **EXHIBIT G** ("First ITU Application"). Brooks Brothers applied to use the
6 BROOKS mark in connection with a wide variety of goods as well as retail store and online retail
7 store services featuring clothing for men, women, and sporting goods, among others. Brooks
8 Brothers applied for the registration on the basis that it had a bona fide intent to use the BROOKS
9 mark in commerce under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b). Specifically,
10 Brooks Brothers declared it "believe[d] that [it] is entitled to use the mark in commerce" and that
11 it "has a bona fide intention to use the mark in commerce on or in connection with the
12 goods/services" in the ITU Application. In early 2020, it filed a second application to use the
13 standalone BROOKS trademark, this time on Christmas tree ornaments, again declaring its
14 intention to use the BROOKS mark in commerce. **EXHIBIT H** ("Second ITU Application").

15 **D. Brooks v. Brooks Brothers**

16 63. In the face of Brooks Brothers' encroachment into the market for athletic and
17 athletic-inspired footwear and apparel and its brazen attempts to claim the BROOKS mark for
18 itself, Brooks was left with no choice but to seek legal recourse. On February 10, 2020, Brooks
19 filed suit against Brooks Brothers in this District seeking injunctive relief on the basis that,
20 among other things, Brooks Brothers had infringed Brooks' federal and common law trademark
21 rights ("*Brooks v. Brooks Brothers*").¹⁷

22 64. In its answer to the complaint in *Brooks v. Brooks Brothers*, Brooks Brothers
23 alleged that it owned common law rights to BROOKS and asserted that it was **Brooks** that was
24 infringing the Brooks Brothers' trademark rights by marketing its products under the BROOKS
25

26 ¹⁷ *Brooks Sports, Inc. v. Brooks Brothers Group, Inc.*, 2:20-cv-207-TSZ, Complaint (Dkt. #1). **EXHIBIT A.**

1 name. Brooks Brothers thus counterclaimed for trademark infringement, trademark dilution,
 2 unfair competition, and breach of contract.¹⁸ In its counterclaims, Brooks Brothers relied heavily
 3 on the 1980 Agreement, contending that – despite the fact that Brooks Brothers had never before
 4 used or sought to register the standalone BROOKS mark on any products either before or after
 5 1980 – the agreement somehow gave Brooks Brothers rights in the standalone BROOKS
 6 trademark.

7 65. Brooks Brothers’ claim to the BROOKS mark is untenable. Brooks Brothers does
 8 not have a registered BROOKS mark. To the best of Brooks’ knowledge, Brooks Brothers has
 9 never sold or offered for sale an item with the BROOKS mark or otherwise used BROOKS in
 10 commerce as required to possess trademark rights of any kind. Moreover, Brooks Brothers’
 11 position disregards Brooks’ federally-registered and common law rights to BROOKS. And to the
 12 extent Brooks Brothers contends that the 1980 Agreement affords it rights beyond those it has
 13 developed through the goodwill of its business, it fundamentally misinterprets the 1980
 14 Agreement. The 1980 Agreement existed to minimize conflict between the parties as they
 15 pursued their respective businesses by avoiding disputes over trademark uses and registrations.
 16 The 1980 Agreement did not limit or expand the trademark rights of either party.

17 66. Brooks Brothers’ recent claims to the standalone BROOKS mark are also contrary
 18 to Brooks Brothers’ own prior representations to the USPTO during the lifetime of the 1980
 19 Agreement. For example, when Brooks Brothers tried to register a BROOKSBOYS mark in
 20 2001, the USPTO refused the application based on a likelihood of confusion with eight of
 21 Brooks’ registrations for BROOKS and BROOKS-formative marks. **EXHIBIT I**
 22 (BROOKSBOYS refusal and response). The examiner determined that there was a high degree
 23 of similarity between the marks because of the presence of BROOKS in BROOKSBOYS. To
 24 overcome the refusal, Brooks Brothers argued that “*it might be a different story if Applicant*
 25

26 ¹⁸ *Brooks Sports, Inc. v. Brooks Brothers Group, Inc.*, 2:20-cv-207-TSZ, Answer (Dkt. #14). **EXHIBIT B.**

1 *[Brooks Brothers] were seeking to register BROOKS alone,”* but assured the USPTO that it was
 2 not seeking rights to the standalone BROOKS. *Id.* at 12.

3 67. Brooks Brothers faced the same issue when it tried to register BROOKS SHIRTS
 4 for a wide variety of clothing; the USPTO refused the application because the mark was
 5 “substantially similar” to Brooks’ registered BROOKS and design trademark and the goods were
 6 “closely related” such that there existed a likelihood of confusion. **EXHIBIT J** (BROOKS
 7 SHIRTS refusal and response). Again, Brooks Brothers countered that “[i]t might be a different
 8 story if Applicant were seeking to register BROOKS alone . . . [h]owever, *it is not.*” *Id.* at 11.

9 68. In *Brooks v. Brooks Brothers*, Brooks Brothers began to tell the “different story”
 10 that it had previously disavowed. It adopted a new interpretation of the 1980 Agreement, which
 11 it sought to weaponize in support of a desperate strategy to save its struggling business. In its
 12 Answer, Brooks Brothers asserted that if Brooks and Brooks Brothers market similar apparel
 13 under their respective names—with Brooks using its BROOKS mark and Brooks Brothers using
 14 its BROOKS BROTHERS or Combination Marks—there would be consumer confusion.¹⁹
 15 Brooks Brothers also asserted that if both parties used the standalone BROOKS marks in
 16 connection with their respective goods, consumers would be confused.²⁰ But Brooks Brothers
 17 maintained that this alleged consumer confusion—precipitated by Brooks Brothers’ efforts to
 18 pivot into new markets and its newly-concocted position that it owns the standalone BROOKS
 19 mark—should be avoided by allowing *Brooks Brothers*, rather than Brooks, to use the standalone
 20 BROOKS mark on clothing. Brooks Brothers contended that the 1980 Agreement required this
 21 inequitable and commercially unreasonable result.

22 69. Brooks Brothers’ aggressive reinterpretation of the 1980 Agreement in pursuit of a
 23 new business strategy thwarted the agreement’s purpose of avoiding conflicts between the
 24 parties. For this reason, among others, Brooks terminated the 1980 Agreement on June 13, 2020.

25 ¹⁹ *Brooks Sports, Inc. v. Brooks Brothers Group, Inc.*, 2:20-cv-207-TSZ, Answer, at ¶ 220 (Dkt. #14).

26 ²⁰ *Id.* at ¶ 252.

70. To head off Brooks Brothers' desperate efforts to steal its intellectual property, Brooks filed for preliminary injunctive relief on June 22, 2020 in *Brooks v. Brooks Brothers* to prevent Brooks Brothers from using the BROOKS mark pending resolution of the dispute. That motion was never decided, however, because while it was pending, the already-reeling Brooks Brothers business collapsed in the face of the global Covid-19 pandemic.

E. The Brooks Brothers Bankruptcy and Defendants' Acquisition

71. On or about July 8, 2020, Brooks Brothers Group filed for bankruptcy. Less than two months later, Defendants bought Brooks Brothers' assets out of the bankruptcy for \$325 million. According to industry observers, this was a "bargain basement price for the two-hundred-year-old label . . . , which in 2019 generated a revenue of \$991 million."²¹

72. In public statements and filings, Defendants have stated that they acquired and manage the Brooks Brothers assets as follows:

- a. SPARC—the joint venture between Simon Property and ABG—purchased Brooks Brothers' assets out of bankruptcy and had Brooks Brothers assign all trademark rights to BB IPCO, a holding company wholly owned and controlled by ABG.
- b. ABG controls the Brooks Brothers trademark rights through BB IPCO. ABG holds itself out as having "purchased" the trademark rights assigned to BB IPCO LLC and claims to control those rights.²² It has declared that it will oversee all licensing partnerships, new business, and brand development.
- c. SPARC is "the dedicated operating company for ABG owned brands . . . [and] assume[d] the role of core licensee for Brooks Brothers." *Id.* SPARC assigned at

²¹ *New executive team drives relaunch of Brooks Brothers*, Fashion Network, <https://www.fashionnetwork.com/news/New-executive-team-drives-relaunch-of-brooks-brothers.1267596.html>.

²² *Authentic Brands Group and SPARC Group Finalize the Acquisition of Brooks Brothers*, ABG press release (Sept. 1, 2020), <https://abgnewsroom.com/home/authentic-brands-group-and-sparc-group-finalize-the-acquisition-of-brooks-brothers>.

1 least some of the Brooks Brothers assets to BB OPCO, which functions as an
2 operating company.

- 3 d. ABG and SPARC—through BB IPCO and BB OPCO—jointly control the
4 marketing and advertising of the Brooks Brothers goods and services, which
5 includes use of all Brooks Brothers trademarks and therefore materially contribute
6 to the use of those trademarks.
- 7 e. ABG and SPARC—through BB OPCO—jointly manage the sale and offer for sale
8 of Brooks Brothers’ goods and services in commerce.
- 9 f. Defendants operate as partners and have the authority to bind one another in
10 transactions with third parties. Defendants exercise joint ownership and control
11 over the Brooks Brothers’ products and trademarks. Defendants have actual
12 knowledge of all uses and intended uses of any trademarks on Brooks Brothers’
13 goods and services.

14 **F. Defendants’ Infringement of the Brooks Marks**

15 73. Before Brooks Brothers filed for bankruptcy, it declared its intent to use the
16 BROOKS mark in its ITU Application. Brooks Brothers also claimed actual use of the BROOKS
17 mark by alleging common law rights in the mark.²³

18 74. Prior to its bankruptcy, Brooks Brothers had also begun blurring the longstanding
19 market segmentation between Brooks and Brooks Brothers. Brooks Brothers began to characterize
20 itself as an “innovator and seller of sportswear.”²⁴ It declared its intent to move into Brooks’ market
21 for athletic and athletic-inspired footwear and apparel and then began selling a “Sporty Sneaker”
22 bearing an uncanny resemblance to a Brooks running shoe.

23 *Brooks Sports, Inc. v. Brooks Brothers Group, Inc.*, 2:20-cv-207-TSZ, Answer, at ¶ 166 (Dkt. #14).

24 *Id.* at ¶ 187.

75. Along with its other actions, Brooks Brothers' sworn representations in multiple forums that it was using and intended to use the BROOKS mark in commerce led Brooks to move for preliminary injunctive relief.

76. With the acquisition of Brooks Brothers by Defendants, the threat to Brooks' brand is even more acute. The CEO of Simon Property has described ABG as "very, very good about understanding where there is value in the [acquired] brand because they know how they can monetize that intellectual property."²⁵ Defendants' efforts to milk every last dollar from the ailing Brooks Brothers' brand place Brooks' thriving premium brand in considerable jeopardy.

77. Since the acquisition, Defendants have maintained Brooks Brothers' claim to the standalone BROOKS mark. They adopted and continue to pursue Brooks Brothers intent-to-use application for the BROOKS mark and maintained the opposition to Brooks' registration of its BROOKS mark for shoes and apparel. Defendants have also indicated that they will maintain Brooks Brothers' counterclaims from *Brooks v. Brooks Brothers*, including the claims to the BROOKS mark and their allegations that Brooks is infringing Brooks Brothers' purported rights in the BROOKS mark.

78. Defendants have publicly stated their intention to pursue the growth of athletic-inspired clothing even more aggressively and rapidly than Brooks Brothers.²⁶ In an article from August of 2020, SPARC and ABG executive Jamie Salter was quoted as stating that "[t]here will be a lot more leisurewear and activewear" in the Brooks Brothers product line and that "[w]e

²⁵ Sanford Stein, *Sparc Group, The Simon Property Group/ABG Creation, May Well Reimagine the Future 'Brandscape'*, Forbes (Aug. 20, 2020) (complete article on file with undersigned counsel), <https://www.forbes.com/sites/sanfordstein/2020/08/20/sparc-group-the-simon-property-groupabg-creation-may-well-reimagine-the-future-brandscape/?sh=18b3560c6057>.

²⁶ Jean Palmieri, *The Brooks Brothers Playbook Includes More Sportswear, E-comm and Fun*, Women's Wear Daily (Dec. 1, 2020), <https://finance.yahoo.com/news/exclusive-brooks-brothers-playbook-includes-050129922.html>; Cam Wolf, *Brooks Brothers's Future Looks a Lot Like Menswear's Past*, GQ (Dec. 1, 2020), <https://www.gq.com/story/brooks-brothers-hires-michael-bastian>.

won't forget the tailored piece but there won't be a huge emphasis in that area.”²⁷ Mr. Salter acknowledged that Brooks Brothers' reputation is primarily as a purveyor of suits and sport coats, but said that going forward leisure and activewear “needs to be 80%” of the Brooks Brothers product line. *Id.* He added that he intended to hire a “big-name designer” with a “strong sportswear background” to engineer this change. *Id.*

79. By December, Defendants had done just that. The new designer, Michael Bastian, claimed to be “beefing up sportswear” and jumping on the athleisure “trend” for both men and women for the Fall 2021 collection to “get a bigger piece of the pie.”²⁸ Mr. Bastian indicated that the brand was going to try to expand in the women's market and to “accelerate . . . growth in digital” and online commerce. *Id.* Mr. Salter has similarly disclosed Defendants' plans to expand Brooks Brothers' e-commerce business from “a couple hundred million” to \$1 billion within two to three years.²⁹ President and Chief Marketing Officer of ABG Nick Woodhouse previewed some “collaborations that are not expected from us” in a recent interview.³⁰

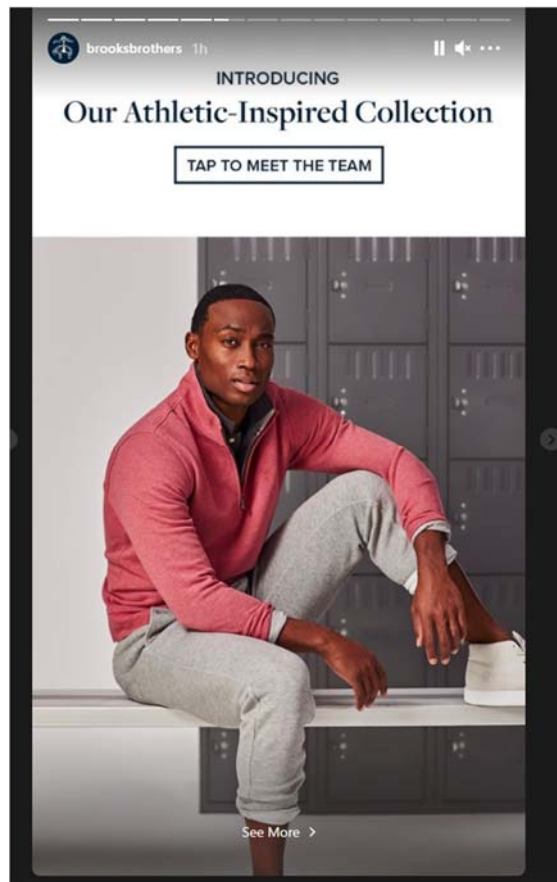
80. Just days ago, Defendants made good on their promises to veer aggressively away from Brooks Brothers' traditional domain. On or about February 26, 2021, Defendants launched an “Athletic-Inspired Collection” under the Brooks Brothers name. On about that day, the front page of the Brooks Brothers website began advertising that collection, notifying consumers that Brooks Brothers was now offering “[s]weatshirts, joggers & shorts that raise the bar on comfort” and began advertising the same on social media:

²⁷ Jean Palmieri, *Big-Name Designer Among the Changes Expected for Brooks Brothers*, Women's Wear Daily (Aug. 14, 2020) (complete article on file with undersigned counsel), <https://wwd.com/business-news/retail/big-name-designer-among-the-changes-expected-for-brooks-brothers-1203699451/>.

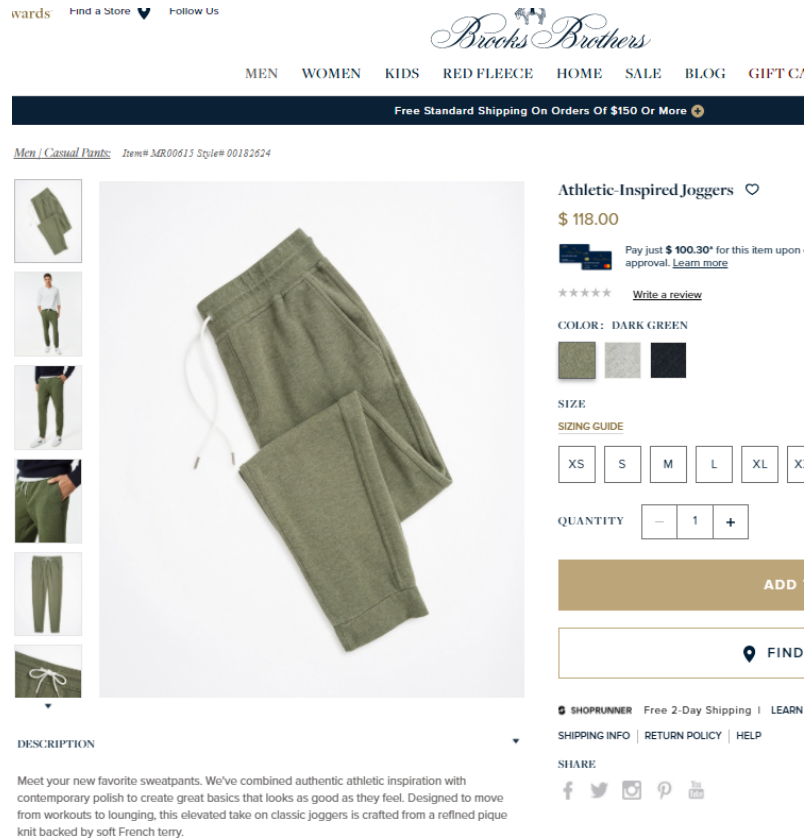
²⁸ Jean Palmieri, *The Brooks Brothers Playbook Includes More Sportswear, E-comm and Fun*, Women's Wear Daily (Dec. 1, 2020), <https://finance.yahoo.com/news/exclusive-brooks-brothers-playbook-includes-050129922.html>.

²⁹ Jean Palmieri, *Big-Name Designer Among the Changes Expected for Brooks Brothers*, Women's Wear Daily (Aug. 14, 2020) (complete article on file with undersigned counsel), <https://wwd.com/business-news/retail/big-name-designer-among-the-changes-expected-for-brooks-brothers-1203699451/>.

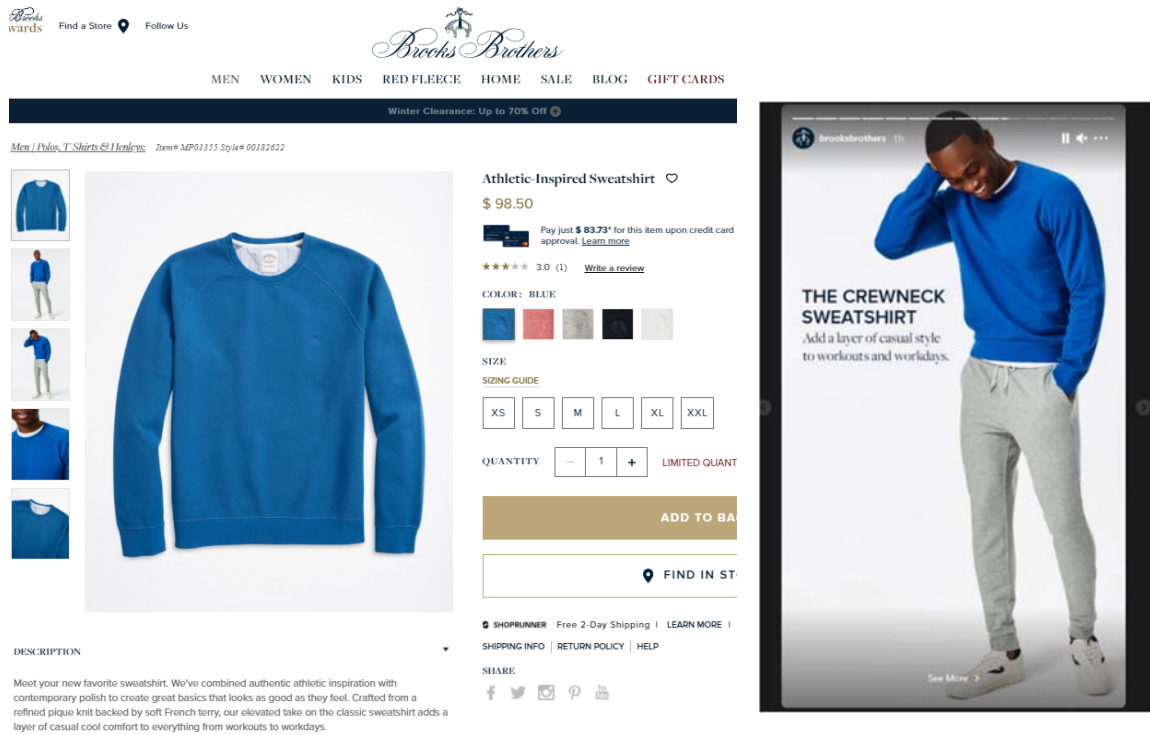
³⁰ Jean Palmieri, *The Brooks Brothers Playbook Includes More Sportswear, E-comm and Fun*, Women's Wear Daily (Dec. 1, 2020), <https://finance.yahoo.com/news/exclusive-brooks-brothers-playbook-includes-050129922.html>.



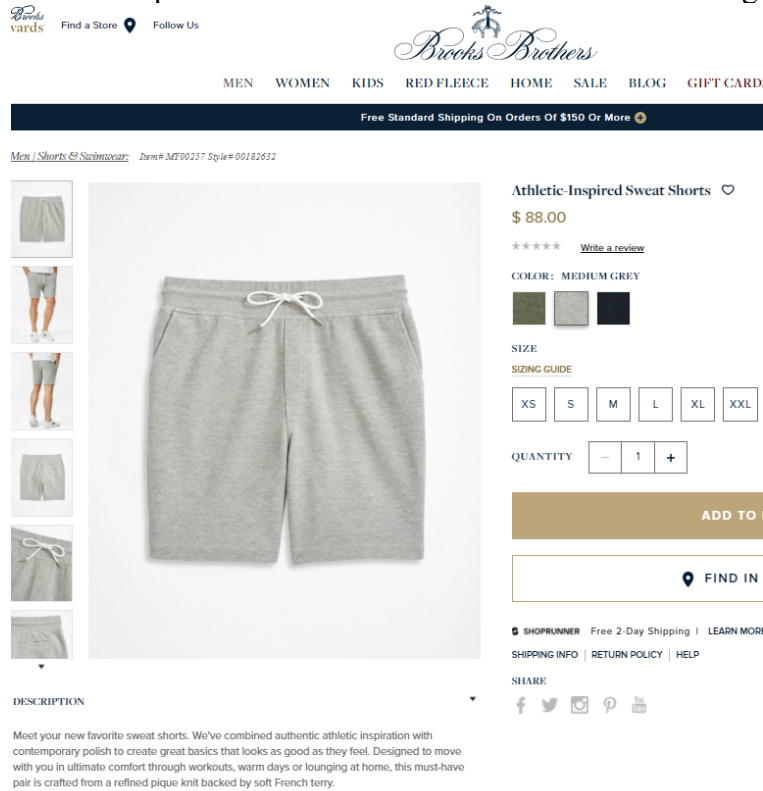
81. Among other items, the Brooks Brothers “Athletic-Inspired Collection” includes:
a. Athletic-inspired joggers that are “[d]esigned to move from workouts to lounging”:



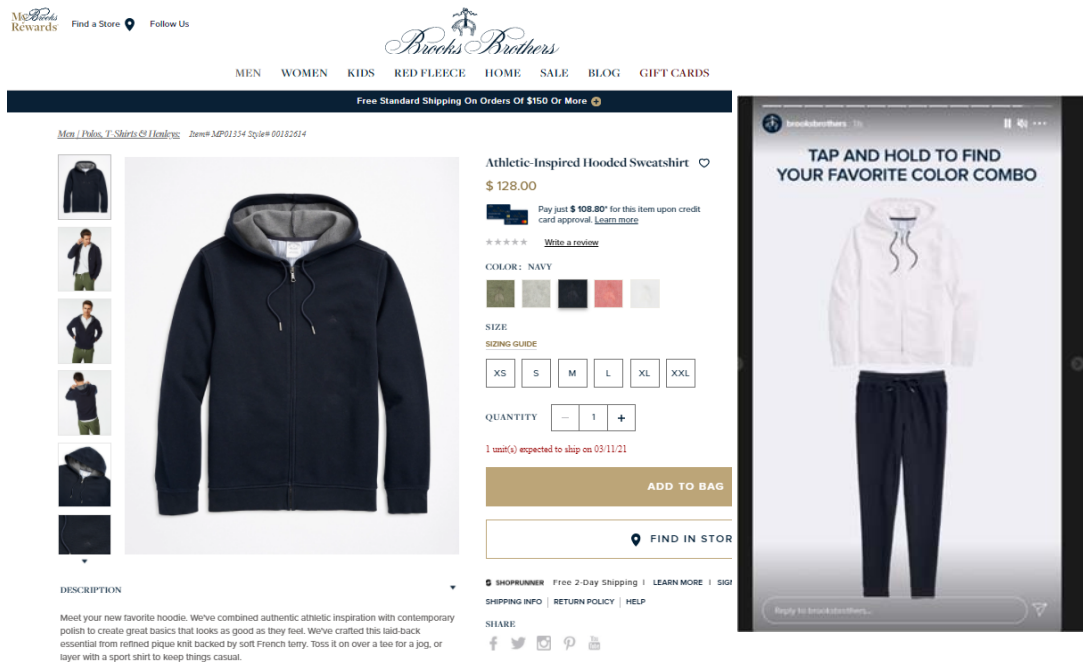
b. Athletic-inspired sweatshirt for “workouts to weekdays”:



c. Athletic-inspired sweat shorts for “ultimate comfort through workouts”:



d. Athletic-inspired hooded sweatshirts to wear “for a jog”:



82. The Brooks Brothers “Athletic-Inspired Collection” is a threat to Brooks’ brand equity and trademark rights. Although Defendants’ new collection is clearly not the sort of performance athletic apparel for which Brooks is famous, the new collection openly purports to mimic such apparel and expressly advertises itself as running gear. The use of the “Brooks Brothers” name on these fake running clothes threatens to confuse consumers who associate the “Brooks” name with high-quality performance running shoes and apparel, and to tarnish Brooks’ hard-earned reputation as a premium performance brand.

83. Meanwhile, in light of Defendants’ actions and public statements asserting that they have rights to the standalone BROOKS mark, Brooks believes that Defendants are using or intend to imminently use the BROOKS mark in commerce in connection with the sale, offer for sale, or distribution of their goods. Indeed, Brooks Brothers has publicly represented as much in various forums and Defendants have actively embraced these positions.

84. Defendants’ acts are willful, and are committed with the deliberate intent to trade on the goodwill of the Brooks Marks, cause confusion and deception in the marketplace, and divert potential sales of Brooks’ goods and services to Defendants.

85. Defendants’ acts, unless restrained, will cause damage and irreparable harm to Brooks and to its valuable reputation and goodwill with the consuming public for which Brooks has no adequate remedy at law.

V. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

FEDERAL TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114

86. Brooks repeats and realleges the factual allegations stated above as if fully set forth herein.

87. Brooks owns the rights to the Registered Brooks Marks, which are valid and subsisting.

1 88. Brooks' rights in its Registered Brooks Marks predate Defendants' use of any
2 BROOKS BROTHERS and/or Combination Marks in connection with athletic footwear, apparel,
3 or accessories (other than golf apparel) and predate Defendants' use of BROOKS in connection
4 with any goods or services.

5 89. Based on the totality of the facts and circumstances alleged herein, Defendants are
6 using the BROOKS BROTHERS Marks and are using and/or have an intent to imminently use in
7 commerce the Combination Marks in connection with the sale, offering for sale, distribution, or
8 advertising of athletic footwear, apparel, or accessories in ways that are likely to confuse
9 consumers; and Defendants are using and/or have an intent to imminently use in commerce the
10 BROOKS mark for the sale, offering for sale, and distribution of their goods.

11 90. Defendants' conduct as alleged herein is likely to cause confusion, or to cause
12 mistake, or to deceive, in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

13 91. The public in the United States and worldwide associate the Registered Brooks
14 Marks with Brooks' goods and services. Defendants' conduct as alleged herein will confuse and
15 deceive consumers as to the origin, source, sponsorship or affiliation of their goods and services
16 and will allow Defendants to unjustly benefit from Brooks' long-standing reputation in the
17 marketplace for quality, innovation, and performance. Among other things, Defendants
18 unauthorized use is likely to cause consumers to believe, contrary to fact, that Defendants' goods
19 and services are sold, authorized, endorsed, sponsored, or otherwise approved by Brooks, or that
20 Defendants are in some way affiliated with Brooks.

21 92. Defendants' conduct as alleged herein threatens to cause and is causing immediate
22 and irreparable harm and injury to Brooks and to its goodwill and reputation. Defendants'
23 conduct as alleged herein will continue to both damage Brooks and confuse the public unless
24 enjoined by this Court. Brooks has no adequate remedy at law.

25 93. Defendants' continued conduct as alleged herein constitutes willful infringement of
26 Brooks' exclusive rights in the Brooks Marks.

94. Defendants' continued conduct as alleged herein is extraordinary and therefore makes this an exceptional case within the meaning of 15 U.S.C. § 1117.

95. Each Defendant is directly, contributorily, and vicariously liable for the infringement of every other Defendant.

96. Brooks is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

SECOND CLAIM FOR RELIEF

FEDERAL UNFAIR COMPETITION UNDER 15 U.S.C. § 1125(a)

97. Brooks repeats and realleges the factual allegations stated above as if fully set forth herein.

98. Brooks owns the rights to the Brooks Marks, including all federal statutory and common law rights.

99. Based on the totality of the facts and circumstances alleged herein, Defendants are using the BROOKS BROTHERS Marks and are using and/or have an intent to imminently use in commerce the Combination Marks in connection with the sale, offering for sale, distribution, or advertising of athletic footwear, apparel, or accessories in ways that are likely to confuse consumers; and Defendants are using and/or have an intent to imminently use in commerce the BROOKS mark for the sale, offering for sale, and distribution of their goods.

100. Defendants' conduct as alleged herein is likely to cause confusion, or to cause mistake, or to deceive, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) and constitutes unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

101. The public in the United States and worldwide associate the Brooks Marks with Brooks' goods and services. Defendants' conduct as alleged herein will confuse and deceive

consumers as to the origin, source, sponsorship or affiliation of their goods and services and will allow Defendants to unjustly benefit from Brooks' long-standing reputation in the marketplace for quality, innovation, and performance. Defendants' conduct is likely to cause consumers to believe, contrary to fact, that Defendants' goods and services are sold, authorized, endorsed, or sponsored by Brooks, or that Defendants are in some way affiliated with or sponsored by Brooks.

102. Defendants' conduct as alleged herein constitutes use of a false designation of origin and misleading description and representation of fact.

103. Defendants' conduct as alleged herein threatens to cause and is causing immediate and irreparable harm and injury to Brooks, and to its goodwill and reputation. Defendants' conduct as alleged herein will continue to both damage Brooks and confuse the public unless enjoined by this Court. Brooks has no adequate remedy at law.

104. Defendants' conduct as alleged herein is willful and is intended to and likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Defendants with Brooks.

105. Defendants' continued and threatened conduct as alleged herein despite their awareness of Brooks' ownership of the Brooks Marks and the harm and confusion that they are causing and will cause is extraordinary and makes this an exceptional case within the meaning of 15 U.S.C. § 1117.

106. Brooks is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

THIRD CLAIM FOR RELIEF

FEDERAL TRADEMARK DILUTION UNDER 15 U.S.C. § 1125(c)

107. Brooks repeats and realleges the factual allegations stated above as if fully set forth herein.

1 108. Brooks owns the rights to the Brooks Marks, including all federal statutory and
2 common law rights.

3 109. Due to over 100 years of use, and as evidenced by Brooks' impressive commercial
4 success and industry praise of Brooks' goods and services, the Brooks Marks are distinctive and
5 "famous marks" within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).
6 The Brooks Marks became distinctive and famous before Defendants' conduct as alleged herein.

7 110. Based on the totality of the facts and circumstances alleged herein, Defendants are
8 using the BROOKS BROTHERS Marks and are using and/or have an intent to imminently use in
9 commerce the Combination Marks in connection with the sale, offering for sale, distribution, or
10 advertising of athletic footwear, apparel, or accessories in ways that are likely to confuse
11 consumers; and Defendants are using and/or have an intent to imminently use in commerce the
12 BROOKS mark for the sale, offering for sale, and distribution of their goods.

13 111. Defendants are using and/or intend to imminently use one or more marks that is
14 identical or nearly identical to the BROOKS mark.

15 112. Defendants' conduct as alleged herein is likely to cause dilution by blurring or
16 dilution by tarnishment of the famous Brooks Marks in violation of Section 43(c) of the Lanham
17 Act, 15 U.S.C. § 1125(c).

18 113. Defendants' conduct as alleged herein have diluted and will, unless enjoined,
19 continue to dilute and are likely to dilute the distinctive quality of Brooks' famous Brooks Marks.

20 114. Defendants' acts as alleged herein have tarnished and will, unless enjoined,
21 continue to tarnish, and are likely to tarnish the Brooks Marks by undermining and damaging the
22 valuable goodwill associated therewith.

23 115. Defendants' acts as alleged herein are intentional and willful and have already
24 caused Brooks irreparable damage and will, unless enjoined, damage and continue to so damage
25 Brooks, which has no adequate remedy at law.
26

116. Defendants' continued and threatened conduct as alleged herein despite their awareness of Brooks' ownership of the Brooks Marks and the harm and confusion that they are causing and will cause is extraordinary.

117. Brooks is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

FOURTH CLAIM FOR RELIEF

UNFAIR COMPETITION UNDER RCW § 19.86.020

118. Brooks repeats and realleges the factual allegations stated above as if fully set forth herein.

119. Brooks owns the rights to the Brooks Marks, including all common law rights.

120. Based on the totality of the facts and circumstances alleged herein, Defendants are using the BROOKS BROTHERS Marks and are using and/or have an intent to imminently use in commerce the Combination Marks in connection with the sale, offering for sale, distribution, or advertising of athletic footwear, apparel, or accessories in ways that are likely to confuse consumers; and Defendants are using and/or have an intent to imminently use in commerce the BROOKS mark in connection for the sale, offering for sale, and distribution of their goods.

121. Defendants' conduct as alleged herein is an unfair and deceptive practice and constitutes unfair competition in violation of RCW § 19.86.020.

122. The public in the United States and worldwide associate the Brooks Marks with Brooks' goods and services. Defendants' conduct as alleged herein will confuse and deceive consumers as to the origin, source, sponsorship or affiliation of their goods and services and will allow Defendants to unjustly benefit from Brooks' long-standing reputation in the marketplace for quality, innovation, and performance.

123. Defendants' conduct as alleged herein threatens to cause and is causing immediate and irreparable harm and injury to Brooks, and to its goodwill and reputation, and will continue to both damage Brooks and confuse the public unless enjoined by this Court. Brooks has no adequate remedy at law.

124. Defendants' unfair and deceptive practices have directly and proximately injured Brooks and its threatened acts will continue to injure Brooks, including causing injury to Brooks' business and property.

125. Defendants' unfair and deceptive practices have negatively affected and injured the public interest.

126. Brooks is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action, and an increased award of up to three times its actual damages under RCW §19.86.090, together with prejudgment and post-judgment interest.

FIFTH CLAIM FOR RELIEF

TRADEMARK DILUTION UNDER RCW § 19.77.160

127. Brooks repeats and realleges the factual allegations stated above as if fully set forth herein.

128. Brooks owns rights in the Brooks Marks, including all common law rights. All such rights owned by Brooks are superior to any rights that Defendants may claim to have in the BROOKS mark or any other Brooks Marks.

129. Due to over 100 years of use, and as evidenced by Brooks' impressive commercial success and industry praise of Brooks' goods and services, the Brooks Marks are famous and distinctive in the state of Washington. The Brooks Marks became distinctive and famous in the State of Washington before Defendants' conduct as alleged herein.

130. Based on the totality of the facts and circumstances alleged herein, Defendants are using the BROOKS BROTHERS Marks and are using and/or have an intent to imminently use in

1 commerce the Combination Marks in connection with the sale, offering for sale, distribution, or
2 advertising of athletic footwear, apparel, or accessories in ways that are likely to confuse
3 consumers; and Defendants are using and/or have an intent to imminently use in commerce the
4 BROOKS mark for the sale, offering for sale, and distribution of their goods.

5 131. Defendants are using and/or intend to imminently use one or more marks that are
6 identical or nearly identical to the BROOKS mark.

7 132. Defendants' unauthorized conduct in the State of Washington as alleged herein is
8 likely to cause dilution of the famous Brooks Marks in violation of RCW § 19.77.160.

9 133. Defendants' conduct as alleged herein has diluted and will, unless enjoined,
10 continue to dilute and is likely to dilute the distinctive quality of Brooks' famous Brooks Marks.

11 134. Defendants' conduct as alleged herein is intentional and willful in violation of
12 RCW § 19.77.160, and has already caused Brooks irreparable damage and will, unless enjoined,
13 damage and continue to so damage Brooks, which has no adequate remedy at law.

14 135. Brooks is entitled to, among other relief, injunctive relief and its actual damages
15 under RCW § 19.77.160.

16 **SIXTH CLAIM FOR RELIEF**
17 **TRADEMARK INFRINGEMENT UNDER**
18 **WASHINGTON STATE COMMON LAW**

19 136. Brooks repeats and realleges the factual allegations stated above as if fully set forth
20 herein.

21 137. Brooks owns the rights to the valid Brooks Marks, including all common law
22 rights. All such rights owned by Brooks are superior to any rights that Defendants may claim to
23 have in the BROOKS mark or any other of the Brooks Marks. Brooks' rights in the Brooks
24 Marks predate Defendants' use of any BROOKS BROTHERS and/or Combination Marks in
25 connection with athletic footwear, apparel, or accessories (other than golf apparel) and predate
26 Defendants' use of the BROOKS mark in connection with any goods or services.

1 138. Based on the totality of the facts and circumstances alleged herein, Defendants are
2 using the BROOKS BROTHERS Marks and are using and/or have an intent to imminently use in
3 commerce the Combination Marks in connection with the sale, offering for sale, distribution, or
4 advertising of athletic footwear, apparel, or accessories in ways that are likely to confuse
5 consumers; and Defendants are using and/or have an intent to imminently use in commerce the
6 BROOKS mark for the sale, offering for sale, and distribution of their goods.

7 139. Defendants' conduct as alleged herein is likely to cause, has caused, and will
8 continue to cause confusion and deception with the Brooks Marks, or cause confusion, mistake or
9 deception as to the origin of Defendants' goods and services in violation of Washington state
10 common law and RCW § 19.77.900.

11 140. The public in the United States and worldwide associate the Brooks Marks with
12 Brooks' goods and services. Defendants actions as alleged herein will confuse and deceive
13 consumers as to the origin, source, sponsorship or affiliation of their goods and services and will
14 allow Defendants to unjustly benefit from Brooks' long-standing reputation in the marketplace
15 for quality, innovation, and performance. Among other things, Defendants unauthorized use is
16 likely to cause consumers to believe, contrary to fact, that Defendants' goods and services are
17 sold, authorized, endorsed, sponsored, or otherwise approved by Brooks, or that Defendants are
18 in some way affiliated with Brooks.

19 141. Defendants' conduct as alleged herein threatens to cause and is causing immediate
20 and irreparable harm and injury to Brooks and to its goodwill and reputation. Defendants'
21 conduct as alleged herein will continue to both damage Brooks and confuse the public unless
22 enjoined by this Court. Brooks has no adequate remedy at law.

23 142. Defendants' conduct constitutes intentional and willful infringement of Brooks'
24 exclusive rights in the Brooks Marks.

25 143. Each Defendant is directly, contributorily, and vicariously liable for the
26 infringement of every other Defendant.

1 144. Brooks is entitled to, among other relief, injunctive relief and its actual damages
2 under common law.

3 **SEVENTH CLAIM FOR RELIEF**

4 **DECLARATORY JUDGMENT OF NON-INFRINGEMENT**

5 145. Brooks repeats and realleges the factual allegations stated above as if fully set forth
6 herein.

7 146. This is a Declaratory Judgment action for declarations of non-infringement that
8 Brooks' use of BROOKS does not infringe any trademark right owned by Defendants and that
9 Brooks is the senior user of the BROOKS mark.

10 147. On March 4, 2020, Brooks Brothers filed claims against Brooks for trademark
11 infringement, trademark dilution, false designation of origin, and unfair competition, alleging that
12 Brooks Brothers owns the exclusive right to use the trademark BROOKS on apparel, and that
13 Brooks' sale and offer for sale of apparel using its BROOKS mark was a willful violation of
14 Brooks Brothers' trademark rights. Brooks Brothers alleged that in selling goods marked with its
15 house mark, which Brooks has been using for over a century, Brooks knowingly, willfully, and
16 maliciously acted with intent to trade upon Brooks Brothers' reputation and goodwill and to
17 injure Brooks Brothers. Brooks Brothers sought injunctive relief, damages, and an order
18 enjoining Brooks from using its own name on its products.

19 148. According to public statements made by the Defendants, BB IPCO now owns, and
20 Defendants control, any and all trademark rights that were previously owned by Brooks Brothers,
21 including all federal trademark applications and registrations. As part of their ownership of the
22 Brooks Brothers' trademarks, Defendants have continued prosecuting the ITU Applications.

23 149. By continuing to prosecute the ITU Applications, Defendants have represented that
24 they have a bona fide intention to claim exclusive rights to the BROOKS mark, and to use the
25 BROOKS mark, in connection with, among other goods and services, sports bags and retail and
26 online retail store services for the sale of clothing and sporting goods.

1 150. Notably, Defendants have not amended the ITU Applications to subrogate BB
2 IPCO's claimed rights in BROOKS to Brooks' rights, which are known to Defendants.
3 Defendants therefore maintain Brooks Brothers' attestation that its rights in the BROOKS mark
4 in connection with the goods and services in the ITU Applications are superior to Brooks' rights.

5 151. Brooks continues to use its BROOKS mark on its goods and services as it has for
6 years, including in connection with apparel, retail store and online retail store services featuring
7 clothing, and a host of other products and services—the very acts that Brooks Brothers accused as
8 being willful, intentional, and malicious acts of infringement of rights that Defendants now own,
9 and the very goods and services in connection with which Defendants now seeks exclusive rights
10 via the ITU Application.

11 152. To the best of Brooks' knowledge, none of the Defendants nor their predecessor in
12 interest, Brooks Brothers Group, ever used the trademark or service mark BROOKS, and none of
13 them has any trademark rights in the BROOKS mark. In contrast, Brooks has been known to the
14 world as "Brooks" since its founding in 1914. And, as a result of over a century of widespread,
15 continuous and exclusive use of the Brooks Marks to identify its goods and services—including
16 the BROOKS mark—Brooks owns valid and subsisting federal statutory and common law rights
17 in the BROOKS mark in connection with footwear, apparel and accessories, and retail and online
18 store services for the same. Consequently, Brooks' rights to BROOKS are superior to any
19 Defendant's rights, if any.

20 153. As the senior user in the United States, Brooks cannot infringe upon any rights
21 Defendants claim to have in the BROOKS marks under federal statutory or common law.

22 154. Brooks has a reasonable apprehension that it will be sued by Defendants because of
23 the conduct alleged herein. A real, immediate, justiciable controversy exists between Brooks and
24 Defendants with respect to which company, as between one or more of the Defendants or Brooks,
25 owns superior rights in BROOKS, and therefore as to whether the use of BROOKS by Brooks
26 infringes any trademark right owned by Defendants. The Court has subject matter jurisdiction

1 over this claim for declaratory judgment under the Declaratory Judgment Act, 28 U.S.C. §§
2 2201–2202.

3 **Federal Trademark Infringement, 15 U.S.C. § 1114(a)**

4 155. Brooks incorporates the preceding paragraphs by reference as if fully set forth
5 herein.

6 156. As between the parties, Brooks is the senior user of BROOKS. Brooks is
7 recognized by the consuming public of the United States as a designation of source for Brooks.
8 Defendants have no valid claim for trademark infringement under 15 U.S.C. § 1114(a).

9 **Federal False Designation of Origin and Unfair Competition, 15 U.S.C. § 1125(a)**

10 157. Brooks incorporates the preceding paragraphs by reference as if fully set forth
11 herein.

12 158. As between the parties, Brooks is the senior user of BROOKS. BROOKS is
13 recognized by the consuming public of the United States as a designation of source for Brooks.
14 Defendants have no valid claim for false designation of origin or unfair competition under 15
15 U.S.C. § 1125(a).

16 **Federal Trademark Dilution, 15 U.S.C. § 1125(c)**

17 159. Brooks incorporates the preceding paragraphs by reference as if fully set forth
18 herein.

19 160. As between the parties, Brooks is the senior user of BROOKS. BROOKS is
20 recognized by the consuming public of the United States as a designation of source for Brooks.
21 Defendants have no valid claim for dilution under 15 U.S.C. § 1125(c).

22 **Common Law Trademark Infringement**

23 161. Brooks incorporates the preceding paragraphs by reference as if fully set forth
24 herein.

25 162. As between the parties, Brooks is the senior user of BROOKS. Defendants own no
26 common law rights in BROOKS. BROOKS is recognized by the consuming public of the United

1 States as a designation of source for Brooks. Defendants have no valid claim for common law
2 trademark infringement against Brooks.

3 **Unfair Competition RCW § 19.86.020**

4 163. Brooks incorporates the preceding paragraphs by reference as if fully set forth
5 herein.

6 164. As between the parties, Brooks is the senior user of BROOKS, and therefore its use
7 of BROOKS does not constitute an unfair or deceptive practice, and does not constitute unfair
8 competition in violation of Washington's Consumer Protection Act, RCW § 19.86.020.

9 **Trademark Dilution RCW § 19.77.160**

10 165. Brooks incorporates the preceding paragraphs by reference as if fully set forth
11 herein.

12 166. As between the parties, Brooks is the senior user of BROOKS, and therefore no
13 Defendant owns any common law rights in BROOKS, has priority in BROOKS, or owns superior
14 rights in BROOKS.

15 167. Brooks' use of BROOKS cannot and does not violate RCW § 19.77.160

16 **VI. DEMAND FOR JURY TRIAL**

17 168. Pursuant to Fed. R. Civ. P. 38(b), Brooks requests a trial by jury on all issues.

18 **VII. PRAYER FOR RELIEF**

19 WHEREFORE, Brooks requests judgment against Defendants as follows:

20 1. That Defendants have violated Section 32 of the Lanham Act (15 U.S.C. § 1114);
21 Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)); and Section 43(c) of the Lanham Act (15
22 U.S.C. § 1125(c)).

23 2. That Defendants are liable for vicarious trademark infringement.

24 3. That Defendants have contributorily infringed upon Brooks' rights in the Brooks
25 Marks.

1 4. That Defendants have violated RCW § 19.86.020; RCW § 19.77.160; and RCW §
2 19.77.900.

3 5. That Defendants have committed trademark infringement and unfair competition
4 under Washington state common law.

5 6. Declaring that Brooks' use of the BROOKS mark does not violate Defendants'
6 rights under 15 U.S.C. §§ 1114, 1125(a), or 1125(c); that Brooks' use of the BROOKS mark
7 violates no common law trademark right owned by any Defendant; that Brooks' use of the
8 BROOKS mark does not constitute unfair competition under RCW § 19.86.020; and that Brooks'
9 use of BROOKS does not constitute trademark dilution under RCW § 19.77.160.

10 7. Declaring that Brooks has the sole and exclusive right to use the term "BROOKS"
11 as a trademark or service mark in connection with apparel, footwear, accessories, and equipment,
12 and retail store and online store services for sale of the same.

13 8. Granting an injunction permanently enjoining Defendants and their licensees, their
14 respective employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries,
15 contractors, and assigns, and all of those in active concert and participation with any of the
16 foregoing persons and entities who receive actual notice of the Court's order by personal service
17 or otherwise from:

18 a. manufacturing, distributing, selling, marketing, advertising, promoting, or authorizing
19 any third party to manufacture, distribute, sell, market, advertise or promote apparel,
20 footwear, accessories, and equipment bearing the mark BROOKS or any other mark,
21 including BROOKS-formative marks, that is a counterfeit, copy, simulation,
22 confusingly similar variation, or colorable imitation of the Brooks Marks;

23 b. manufacturing, distributing, selling, marketing, advertising, promoting, or authorizing
24 any third party to manufacture, distribute, sell, market, advertise or promote athletic
25 apparel, footwear, accessories, and equipment bearing any of the BROOKS
26 BROTHERS marks or Combination Marks, that is a counterfeit, copy, simulation,

- 1 confusingly similar variation, or colorable imitation of the Brooks Marks;
- 2 c. engaging in any activity that infringes Brooks' rights in its Brooks Marks;
- 3 d. engaging in any activity constituting unfair competition with Brooks;
- 4 e. engaging in any activity that is likely to dilute the distinctiveness of the Brooks
- 5 Marks;
- 6 f. making or displaying any statement, representation, or depiction that is likely to lead
- 7 the public or the trade to believe that (i) Defendants' goods and services are in any
- 8 manner approved, endorsed, licensed, sponsored, authorized, or franchised by or
- 9 associated, affiliated, or otherwise connected with Brooks or (ii) Brooks' goods and
- 10 services are in any manner approved, endorsed, licensed, sponsored, authorized, or
- 11 franchised by or associated, affiliated, or otherwise connected with any Defendant;
- 12 g. using or authorizing any third-party to use any false description, false representation,
- 13 or false designation of origin, or any marks, names, words, symbols, devices, or trade
- 14 dress that falsely associate such business, goods and/or services with Brooks and/or
- 15 the Brooks Marks;
- 16 h. registering or applying to register any trademark, service mark, domain name, trade
- 17 name, or other source identifier or symbol of origin consisting of or incorporating the
- 18 BROOKS mark without the term BROTHERS, including Combination Marks or any
- 19 other mark that infringes or is likely to be confused with the Brooks Marks, in
- 20 connection with athletic apparel, footwear, accessories, and equipment and retail store
- 21 and online retail store services in connection with the sale of the same; and
- 22 i. aiding, assisting, or abetting any other individual or entity in doing any act prohibited
- 23 by sub-paragraphs (a) through (i).

24 9. Granting such other and further relief as the Court may deem proper to prevent the

25 public and trade from deriving the false impression that any goods or services manufactured,

26 sold, distributed, licensed, marketed, advertised, promoted, or otherwise offered or circulated by

1 Defendants are in any way approved, endorsed, licensed, sponsored, authorized, or franchised by
2 or associated, affiliated, or otherwise connected with Brooks or constitute or are connected with
3 Brooks' goods and services.

4 10. Ordering that Defendants recall and destroy all apparel, footwear, accessories, and
5 equipment and related advertisements, promotions, signs, displays, and other materials
6 incorporating or bearing the BROOKS mark.

7 11. Ordering that Defendants recall and destroy all athletic apparel, footwear,
8 accessories, and equipment and related advertisements, promotions, signs, displays, and other
9 materials incorporating or bearing BROOKS BROTHERS or BROOKS BROTHERS
10 Combination Marks or any other mark that is a counterfeit, copy, confusingly similar variation, or
11 colorable imitation of Brooks' Brooks Marks.

12 12. Ordering Defendants to formally abandon with prejudice any and all of its
13 applications to register and registrations for the mark BROOKS, BROOKS-formative marks and
14 any mark consisting of, incorporating, or containing Brooks' Brooks Marks or any counterfeit,
15 copy, confusingly similar variation, or colorable imitation thereof in connection with athletic
16 footwear, accessories, and equipment on any state or federal trademark registry, including,
17 without limitation, U.S. Application Serial Nos. 88/742,542 and 88/746,602 for BROOKS, and
18 88/643,092 for BROOKSFLEX, and U.S. Registration Nos. 5,823,029 for BROOKSCLOUD,
19 4,142,789 for BROOKSCOOL, 3,009,280 for BROOKSSTORM, 2,498,929 for BROOKS
20 STRETCH, 6,266,946 for BROOKSTECH, and 6,053,946 for BROOKSTECH.

21 13. Ordering Defendants to withdraw with prejudice Opposition No. 91,243,962
22 against U.S. Application Serial No. 87/804,267.

23 14. Ordering, pursuant to Section 35(a) of the Lanham Act (15 U.S.C. § 1116(a)),
24 Defendants to file with the court and serve upon Brooks' counsel within thirty (30) days after
25 service on Defendants of an injunction in this action, or such extended period as the court may
26

1 direct, a report in writing under oath, setting forth in detail the manner and form in which
2 Defendants have complied therewith.

3 15. Ordering corrective advertisements in a form approved by the Court that informs
4 the public of the violations of the law as Brooks may prove, and to ameliorate the false and
5 deceptive impressions produced by such violations.

6 16. Awarding Brooks an amount up to three times the amount of its actual damages, in
7 accordance with Section 35(a) of the Lanham Act (15 U.S.C. § 1117(a)).

8 17. Ordering that Defendants account to and pay over to Brooks all profits realized by
9 their wrongful acts in accordance with Section 35(a) of the Lanham Act (15 U.S.C. § 1117(a)),
10 enhanced as appropriate to compensate Brooks for the damages caused thereby.

11 18. Awarding Brooks punitive and exemplary damages as the court finds appropriate to
12 deter any future willful infringement.

13 19. Declaring that this is an exceptional case pursuant to Section 35(a) of the Lanham
14 Act (15 U.S.C. § 1117(a)) and awarding Brooks its costs and reasonable attorneys' fees
15 thereunder.

16 20. Awarding Brooks its actual damages sustained, its costs and expenses, including
17 reasonable attorney's fees, and treble damages under RCW § 19.86.090.

18 21. Awarding Brooks its actual damages sustained, and its costs and expenses,
19 including reasonable attorney's fees under RCW § 19.86.160.

20 22. Awarding Brooks injunctive relief and its actual damages, together with the costs
21 and expenses, including reasonable attorneys' fees, sustained from Brooks' defense of Opposition
22 No. 91,243,962.

23 23. Awarding Brooks interest, including prejudgment and post-judgment interest, on
24 the foregoing sums.

25 24. Awarding such other and further relief as the Court deems just and proper.
26

1 DATED this 1st day of March, 2021.

2
3 Respectfully submitted,

4 SUMMIT LAW GROUP, PLLC
5 Attorneys for Brooks Sports, Inc.

6 By s/ Diana Siri Breaux

Diana Siri Breaux, WSBA #46112

7 Hathaway Burden, WSBA #52970

Email: dianab@summitlaw.com

8 Email: hathawayb@summitlaw.com

315 5th Ave S, Suite 1000

9 Seattle, Washington 98104

Telephone: 206-676-7058

10 And

11 PATTERSON BELKNAP WEBB & TYLER LLP

12 Geoffrey Potter (*admitted pro hac vice*)

Email: gpotter@pbwt.com

13 Aron Fischer (*admitted pro hac vice*)

Email: afischer@pbwt.com

14 Lachlan Campbell-Verduyn (*admitted pro hac vice*)

Email: lcampbellverduyn@pbwt.com

15 1133 Avenue of the Americas

16 New York, NY 10036

Telephone: 212-336-2000

17 *Attorneys for Brooks Sports, Inc.*

18
19 4848-0281-3150, v. 1

Exhibit A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BROOKS SPORTS, INC., a Washington
corporation,

Plaintiff,

v.

BROOKS BROTHERS GROUP, INC., a
Delaware corporation,

Defendant.

Case No. _____

**COMPLAINT FOR TRADEMARK
INFRINGEMENT, UNFAIR
COMPETITION, TRADEMARK
DILUTION, TRADE DRESS
INFRINGEMENT, AND BREACH OF
CONTRACT**

JURY TRIAL DEMANDED

Plaintiff BROOKS SPORTS, INC. (“Brooks”) files this COMPLAINT FOR
TRADEMARK INFRINGEMENT, UNFAIR COMPETITION, TRADEMARK
DILUTION, TRADE DRESS INFRINGEMENT, AND BREACH OF CONTRACT
(“Complaint”) against Defendant BROOKS BROTHERS GROUP, INC., (“Brooks
Brothers”), alleging as follows:

1. The lawsuit seeks to stop Brooks Brothers from using Brooks’ famous
BROOKS trademark on Brooks Brothers’ stores and products and prevent public confusion
and dilution of the BROOKS mark. Brooks also seeks damages for Brooks Brothers’ unfair
competition and breach of contract.

2. Brooks has built an authentic brand for premium, innovative and performance
athletic wear worldwide for more than 100 years. The Brooks brand is established nationally

COMPLAINT - 1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 and globally for anything related to athletic, fitness and performance, including footwear,
2 apparel, accessories, experiences, events, stores, and tools. The Brooks brand extends to
3 persons of all ages, abilities, and backgrounds who are interested in fitness, exercise and
4 walking, and includes footwear, apparel, and accessories for lifestyles related to activities of
5 all kinds and at all levels of participation.

6 3. While Brooks is known for athletic-inspired innovative footwear, apparel and
7 accessories under its famous BROOKS mark, Brooks Brothers is known for its traditional
8 ready-to-wear fashion apparel and tailored business and formal wear under its BROOKS
9 BROTHERS mark. Brooks and Brooks Brothers have coexisted in their respective areas
10 using their own marks for over a century. The parties entered into an agreement in 1980
11 regarding their areas of business and the use of their discrete marks.

12 4. Fashion has evolved toward active lifestyle and athletic-inspired footwear and
13 apparel for everyday wear, including business casual settings. The market for traditional
14 suits, ties, and ready-to-wear and tailored clothing has changed significantly.

15 5. Brooks Brothers is attempting to establish a brand identity for the tastes and
16 expectations of consumers who are less interested in the traditional clothing products for
17 which Brooks Brothers has been known for so many years. Brooks Brothers' efforts to re-
18 brand itself and sell new products that differ from its traditional offerings, however, cannot
19 use Brooks' famous BROOKS marks. Doing so would confuse the public, dilute the
20 BROOKS marks, ride on Brooks' coattails for establishing its reputation in the area of
21 activewear and athletic footwear and apparel, violate the parties' coexistence agreement, and
22 damage Brooks.

23 6. On December 30, 2019, Brooks Brothers filed a new trademark application to
24 use BROOKS alone, without the word BROTHERS, on eight categories of goods, including
25 clothing, sporting goods and accessories for athletics, and retail stores. Brooks Brothers has
26

COMPLAINT - 2

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 also attempted to block Brooks from obtaining registrations for its BROOKS trademark in
2 the United States and other countries, despite decades of unopposed use.

3 7. Brooks Brothers' actions alleged herein will cause consumer confusion and
4 damage Brooks' famous BROOKS marks, and Brooks Brothers will unfairly benefit from its
5 misuse of the BROOKS brand.

6 8. Brooks' famous BROOKS trademarks described are critical in today's digital
7 world in which consumers shop for goods using word and voice searches. Consumers cannot
8 search for designs or symbols, such as the Brooks chevron logo, that do not appear on their
9 mobile phones or computer keyboards. As Brooks' BROOKS trademarks continue to grow
10 in the expanding market of consumers interested in athletics, fitness and exercise, Brooks
11 must protect against consumer confusion by those who wish to trade off the famous
12 BROOKS trademarks that Brooks has spent over a century building.

13 9. This action seeks to protect Brooks' famous federally-registered BROOKS
14 and BROOKS-formative trademarks from Brooks Brothers' efforts to use these marks as
15 Brooks Brothers attempts to enter into the active lifestyle and athletic footwear, apparel and
16 accessories market.

17 10. Specifically, this is an action for: infringement of Brooks' famous federally-
18 registered BROOKS and BROOKS-formative trademarks under Section 32(1) of the Lanham
19 Act, 15 U.S.C. § 1114(1); unfair competition and false designation of origin under Section
20 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); dilution under Section 43(c) of the Lanham
21 Act, 15 U.S.C. § 1125(c); and substantial and related claims of unfair competition, trademark
22 dilution and breach of contract under the statutory and common laws of Washington state, all
23 arising from Brooks Brothers' unauthorized use of the mark BROOKS in connection with
24 the manufacture, distribution, marketing, advertising, promotion, offering for sale, and/or
25 sale of Brooks Brothers' athletic-related footwear, apparel and accessories and related retail
26 store and online store services.

COMPLAINT - 3

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 11. Brooks seeks injunctive and monetary relief.

2 **I. THE PARTIES**

3 12. Brooks repeats and realleges paragraphs 1 through 11 hereof, as if fully set
4 forth herein.

5 13. Brooks is a Washington corporation with its principal place of business at
6 3400 Stone Way North, Suite 500, Seattle, Washington 98103. Brooks sells athletic
7 footwear, apparel and accessories used for a variety of activities and loungewear in more
8 than 50 countries worldwide under its federally-registered BROOKS family of marks.
9 Brooks has been selling its goods and offering its services in the United States under the
10 BROOKS mark, U.S. Reg. No. 1,161,034, since as early as 1914.

11 14. Brooks Brothers is a Delaware corporation with its corporate offices located
12 at 100 Phoenix Avenue, Enfield, Connecticut 06082. Brooks Brothers sells what it describes
13 as “luxury,” traditional and “business casual” apparel suitable for professionals in a business
14 environment and in upscale or formal leisure settings throughout the United States under its
15 “BROOKS BROTHERS” family of marks. Brook Brothers owns federal registrations for
16 BROOKS BROTHERS-formative marks for these products, but does not own a registration
17 for the term “BROOKS” or a registration in connection with athletic-related goods and
18 services.

19 **II. FACTS**

20 **Brooks’ Famous Marks**

21 15. Brooks repeats and realleges paragraphs 1 through 14 hereof, as if fully set
22 forth herein.

23 16. Brooks is the owner of federal registrations on the Principal Register for
24 BROOKS and BROOKS-formative marks for athletic footwear, apparel and accessories
25 (“Registered Brooks Marks”). A table of Brooks’ registrations is attached to this Complaint
26 as Exhibit A and incorporated herein by this reference.

COMPLAINT - 4

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 17. As a result of over 106 years of widespread, continuous and exclusive use of
2 the BROOKS mark to identify its goods and services, Brooks owns valid and subsisting
3 federal statutory and common law rights in the term BROOKS in connection with athletic
4 footwear, apparel and accessories, and retail stores and online store services for the same,
5 including the Registered Brooks Marks (collectively, the “Brooks Marks”).
6
7
8
9



COMPLAINT - 5

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711



COMPLAINT - 6

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

PDX\135106\250279\WFA\27305326.1



COMPLAINT - 7

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711



COMPLAINT - 8

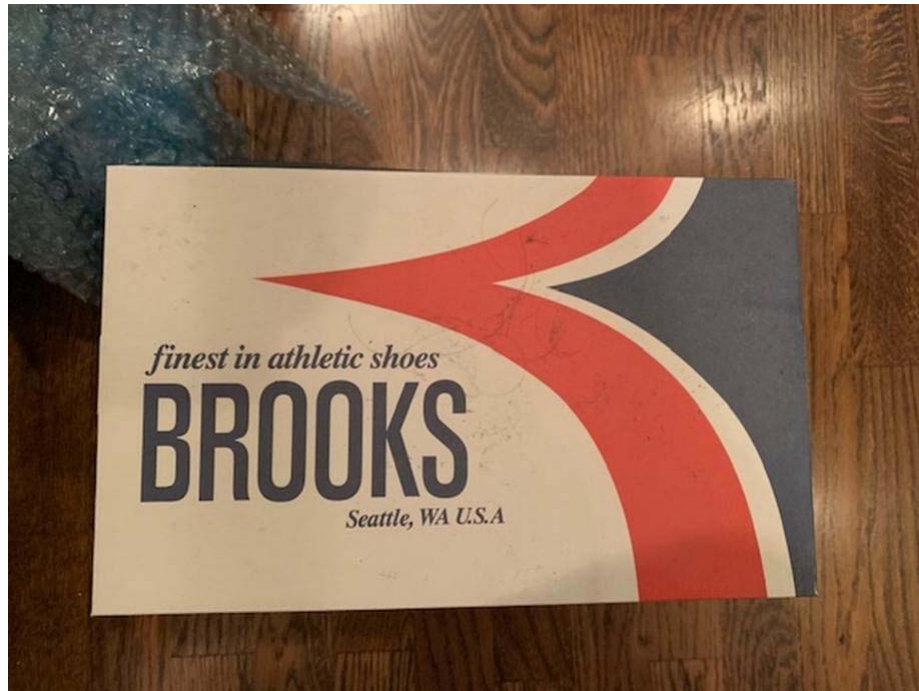
SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711



COMPLAINT - 9

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

PDX\135106\250279\WFA\27305326.1



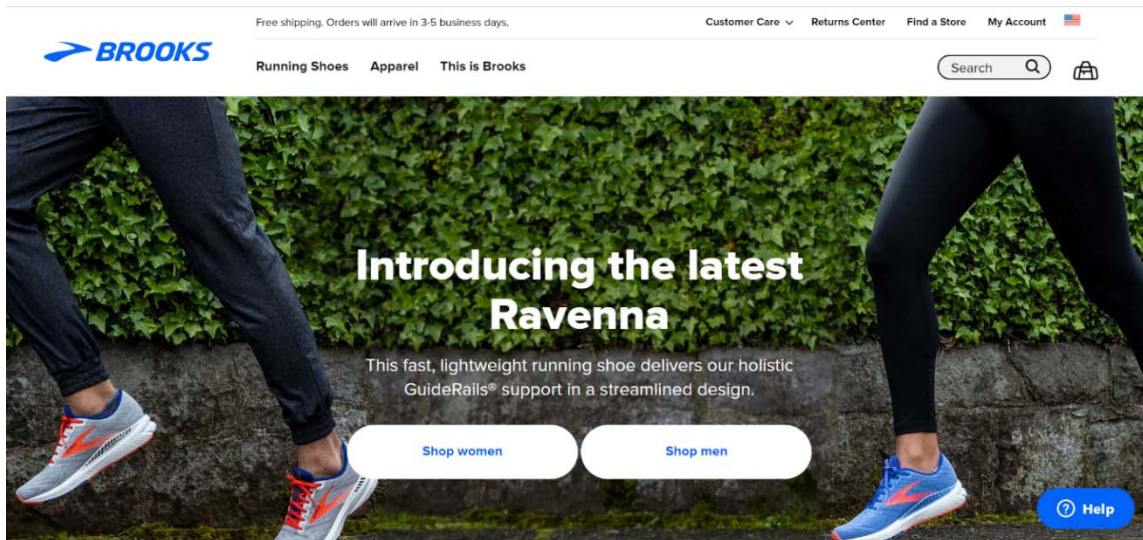
COMPLAINT - 10

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

PDX\135106\250279\WFA\27305326.1

18. The Brooks Marks are used by Brooks throughout the United States and worldwide and are relied on by consumers for athletic performance and quality footwear, apparel, accessories, events, stores, tools, and experiences for all fitness, athletic, and exercise levels.

19. Brooks offers its goods for direct sales to consumers under the Brooks Marks through its website located at www.brooksrunning.com, at Brooks-branded retail stores, at Brooks-branded stores at Expos for athletic and fitness events in cities across the United States, and in numerous retail “pop-up” stores located throughout the United States.





20. Brooks' goods are also sold in over 5,000 third-party retail stores and online stores throughout the United States, including over fifty third-party retail stores in this judicial district.

21. Brooks operates and supports community engagement events in this judicial district such as the November Project, the Brooks Trailhead Running Club (which has over 550 members and has regular group runs starting and ending at the Brooks Flagship Store); sponsorship of the 2018 USA Special Olympics, including sponsorship of two athletes

COMPLAINT - 12

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 competing in the Special Olympics; the Seattle Running Club (which has several hundred
2 active members); the annual Brooks PR Invitational (an invitation-only track and field
3 contest for the best high school athletes in the country that is regularly held at the University
4 of Washington's Husky Stadium in this judicial district); and the Seattle Rock and Roll
5 Marathon (which features running races of various distances including a marathon that starts
6 and finishes at Seattle Center, taking runners through downtown Seattle, Fremont, over the
7 Ballard Bridge, and past Kerry Park).

8 22. Brooks has expended substantial time, money, and resources marketing,
9 advertising, and promoting the athletic footwear, apparel and accessories sold under its
10 Brooks Marks. Brooks has received numerous accolades and industry praise for its athletic
11 footwear and apparel sold under the Brooks Marks, including Editor's Choice, "best running
12 shoe," "best running shorts," "best sports bra," "best workout hoodie," and other awards
13 from *Outside*, *Men's Health*, *Women's Health*, *Fit Bottomed Girls*, *Trail Runner*, *Runner's*
14 *World*, *Trail Sisters*, *Esquire*, and *Self* magazines.

15 23. Brooks has been the top-selling running shoe brand in specialty running stores
16 since 2011. Brooks is second to only Nike, Inc. in apparel sales at specialty running stores,
17 with a 19.2% market share in 2019. Brooks' reputation for performance high-quality and
18 innovative running shoes extends to footwear and apparel for consumers interested in active
19 lifestyles and fitness. Over half of Brooks' sales are to consumers who do not consider
20 themselves to be runners.

21 24. Brooks sold more than 12 million units of its goods in 2019 worth over \$1.2
22 billion dollars in consumer purchases at retail, all bearing the Brooks Marks. More than \$20
23 million worth of Brooks' 2019 annual consumer purchases at retail were derived from sales
24 in Washington state. Brooks has completed several hundred thousand sales to Washington
25 state residents through its website, the Brooks Flagship Store, its retail outlet store in Bothell,
26 Brooks-branded stores at Expos for athletic and fitness events, and in "pop-up" retail stores.

COMPLAINT - 13

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 25. As a result of Brooks' significant expenditures and efforts, the Brooks Marks
2 have come to signify the high-quality of the athletic clothing and accessories designated by
3 the Brooks Marks, and acquired incalculable distinction, reputation, and goodwill belonging
4 exclusively to Brooks.

5 26. The Brooks Marks are distinctive to both the consuming public and Brooks'
6 market.

7 **Brooks Brothers' Use of its BROOKS BROTHERS Marks**

8 27. Brooks Brothers sells its goods under its "BROOKS BROTHERS" family of
9 marks through its interactive website located at: www.brooksbrothers.com, where customers
10 can browse pictures and read literature about Brooks Brothers and its products, and then
11 place orders by selecting the style, color, size and quantity of the desired goods. The Brooks
12 Brothers website is used by persons in Washington state and by Washington residents to
13 shop for and purchase products from Brooks Brothers. Brooks Brothers then facilitates
14 shipment of the purchased goods directly to the customer, including persons in Washington
15 state and Washington residents.

16 28. Brooks Brothers also sells its goods in retail stores throughout the United
17 States under its "BROOKS BROTHERS" family of marks, including three retail stores in
18 Washington state within this district located at 1330 Fifth Avenue, Seattle, WA 98101
19 ("Brooks Brothers Seattle Store"), 1101 Outlet Collection Way, Suite 1108, Auburn, WA
20 98001, and 10600 Quil Ceda Boulevard, Suite #508, Tulalip, WA 98271.

21 29. Brooks Brothers markets and advertises its products in Washington state to
22 promote sales in this district.

23 30. Brooks Brothers also markets and sells its products in third-party retail stores
24 in Washington state, including Amazon, Nordstrom and Macy's.

The Parties' Previous Coexistence

31. On information and belief, Brooks Brothers has only sold goods under BROOKS BROTHERS-formative marks, such as BROOKS BROTHERS and BROOKS BROTHERS RED FLEECE. On information and belief, Brooks Brothers has only offered and sold its luxury and traditional clothing under its BROOKS BROTHERS-formative marks. On information and belief, until recently, Brooks Brothers has not sold or offered for sale any athletic or athletic-related goods or services under its BROOKS BROTHERS family of marks, except for non-technical golf polo shirts.

32. In contrast, Brooks has only offered and sold athletic and athletic-related goods and services under its Brooks Marks.

33. On information and belief, Brooks Brothers has never used the term BROOKS as a trademark in connection with the sale or offer for sale of athletic footwear, apparel or accessories, or retail store or online store services for the sale of the athletic footwear, apparel or accessories.

34. Consequently, Brooks and Brooks Brothers have coexisted without a likelihood of confusion for over one-hundred years by selling their respective goods and services under their respective marks in different markets to different customers who have different objectives in purchasing the parties' respective products.

35. However, the present Complaint is not the first dispute between the parties over their respective rights in the term "BROOKS."

36. The parties' first dispute arose on November 25, 1977, when Brooks Brothers initiated an opposition action with the United States Patent and Trademark Office ("USPTO") against Brooks' federal trademark application for the mark BROOKS in connection with athletic shoes in Class 25 (Opposition No. 91,060,319).

37. On or about January 16, 1980, Brooks and Brooks Brothers executed an agreement (“Settlement Agreement”) resolving Opposition No. 91,060,319. The Settlement Agreement is of indefinite duration.

38. The Settlement Agreement sets forth each party’s covenants to refrain from objecting to the other’s use and registration of certain marks as had been the practice of the parties for decades.

39. The Settlement Agreement attempted to formalize the then status quo market segmentation by granting Brooks the right to use BROOKS-formative marks for all athletic and athletic-related clothing, with a narrow exception for golf related clothing, and granting Brooks Brothers the right to use BROOKS BROTHERS-formative marks on clothing other than athletic shoes and apparel, with an exception for golf polo shirts.

40. In particular, Brooks Brothers agreed in Section (1) of the Settlement Agreement not to “object to the use and registration by [Brooks] for the entire world of the [trademark] BROOKS or BROOKS SHOES in connection with any type of athletic shoe. . .”

41. Brooks Brothers breached its covenant in Section (1) of the Settlement Agreement, on October 3, 2018, by filing an opposition with the USPTO against Brooks’ pending application for the mark BROOKS in connection with athletic footwear; athletic clothing, namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweatshirts, skirts, leggings, rainwear, and vests in Class 25 (U.S. Application Serial No. 87/804,267) (Opposition No. 91,243,962) (“Opposition”).

42. The parties attempted to resolve the Opposition between themselves in December 2019. The attempt to resolve Opposition was unsuccessful.

43. The Opposition is pending before the Trademark Trial and Appeal Board.

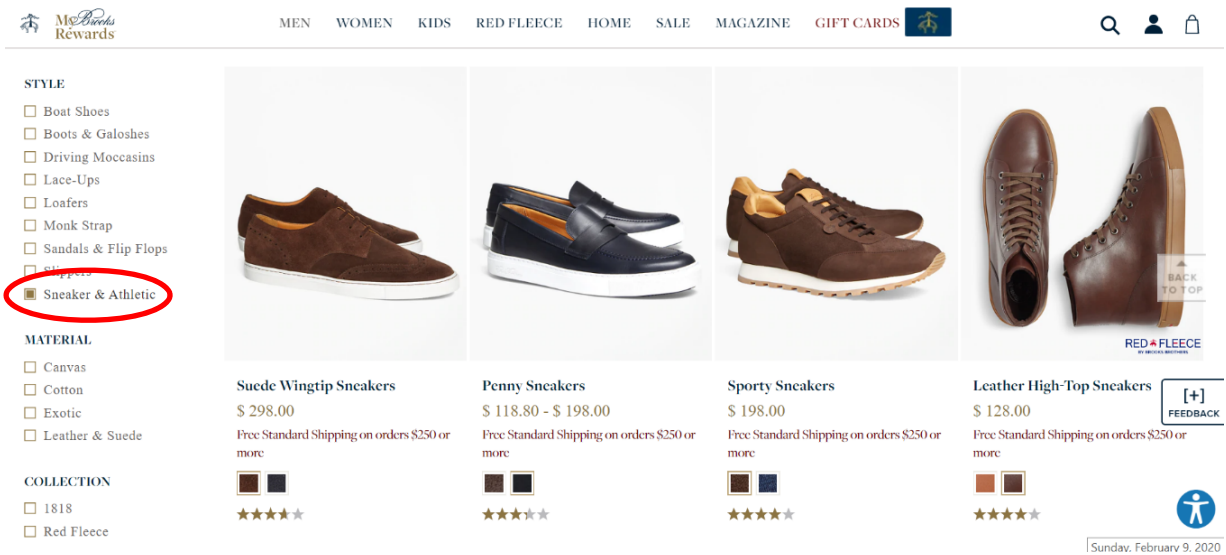
Brooks Brothers' Expansion into Athletic Clothing

44. On information and belief, Brooks Brothers began to enter the athletic footwear market as early as 2018, and is threatening to expand its presence into the athletic and active lifestyle footwear, apparel and accessories markets using the Brooks Marks.

45. In late 2018, Brooks became aware that Brooks Brothers is offering and selling athletic shoes, such as the "Sporty Sneakers," under the BROOKS BROTHERS mark. *See, e.g.*, Exhibit B.



46. On information and belief, Brooks Brothers classifies its footwear by style. The Sporty Sneakers, among the other sneakers offered and sold under the BROOKS BROTHERS mark, are classified by Brooks Brothers as "Sneaker & Athletic" shoes. *See* Exhibit C.



47. Brooks Brothers knowingly sells and has sold the Sporty Sneakers and other athletic shoes in Washington state through its Washington retail stores and to persons in Washington state and to Washington residents through its website.

48. On or about December 30, 2019, just days after the discussions between the parties regarding the Opposition failed, Brooks Brothers filed a federal trademark application for the mark BROOKS in connection with, among other goods and services, all-purpose sport bags in Class 18 and retail store services and online retail store services featuring clothing and sporting goods in Class 35 (U.S. Application No. 88/742,542) (“ITU Application”) on the basis that Brooks Brothers has a bona fide intent to use the mark in commerce under Section 1(b) of the federal Lanham Act, 15 U.S.C. § 1051(b).

49. In submitting the ITU Application, Brooks Brothers declared it “believe[d] that [it] is entitled to use the mark in commerce” and “has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the [ITU A]pplication.”

50. Brooks Brothers filed several other BROOKS-formative federal trademark applications in connection with footwear, apparel and accessories, including athletic-related

1 footwear, apparel and accessories, such as BROOKSTECH (U.S. Application No.
2 87/562,491) and BROOKSFLEX (U.S. Application No. 88/643,092).

3 51. On information and belief, Brooks Brothers has a bona fide intent to expand
4 its presence in the athletic and active lifestyle footwear, apparel and accessories market by
5 offering for sale and selling goods and services that are identical, similar, overlapping or
6 related to Brooks' athletic and active lifestyle footwear, apparel and accessories, and retail
7 store and online store services for the same, under the BROOKS mark that is identical to the
8 Brooks Marks.

9 52. Brooks Brothers knows that its use of the mark BROOKS in connection with
10 athletic and active lifestyle footwear, apparel and accessories, and retail store and online
11 store services for the same, is likely to cause confusion and deception in the marketplace and
12 divert potential sales of Brooks' goods to Brooks Brothers.

13 53. On information and belief, Brooks Brothers' acts are willful with the
14 deliberate intent to trade on the goodwill of Brooks' Brooks Marks, cause confusion and
15 deception in the marketplace, and divert potential sales of Brooks' athletic and active
16 lifestyle footwear, apparel and accessories to Brooks Brothers.

17 54. Brooks Brothers' acts are threatening to cause and causing, and unless
18 restrained, will cause and continue to cause damage and immediate irreparable harm to
19 Brooks and to its valuable reputation and goodwill with the consuming public for which
20 Brooks has no adequate remedy at law.

21 **III. JURISDICTION AND VENUE**

22 **A. SUBJECT MATTER JURISDICTION**

23 55. Brooks repeats and realleges paragraphs 1 through 54 hereof, as if fully set
24 forth herein.

25
26 COMPLAINT - 19

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 56. On information and belief, Brooks Brothers intends to offer the goods and
2 services claimed in the ITU Application to Washington residents and persons in Washington
3 through its website and its own and other retail stores located in Washington state.

4 57. This Court has subject matter jurisdiction over this action under 15 U.S.C. §
5 1121 and 28 U.S.C. §§ 1331 and 1338, because this action arises under the Lanham Act.
6 This Court has supplemental jurisdiction over the causes of action under Washington state
7 law because those causes of action are substantially related to the causes of action over
8 which this Court has original jurisdiction, pursuant to 28 U.S.C. §§ 1338(b) and 1367(a).

9 58. This Court has subject matter jurisdiction over this action under 15 U.S.C. §
10 1332, because the matter in controversy exceeds the value of \$75,000, exclusive of interest
11 and costs, and is between citizens of different states. Brooks is a Washington state
12 corporation with its principal place of business in Washington state. Brooks Brothers is a
13 Delaware corporation with its principal place of business in Connecticut.

14 **B. PERSONAL JURISDICTION**

15 59. On information and belief, Brooks Brothers employs dozens of employees in
16 Washington state to solicit and consummate sales of the goods and services alleged to be
17 infringing hereunder in Brooks Brothers' retail stores located in Washington state, including
18 the Brooks Brothers Seattle Store that is located approximately three miles from the Brooks
19 Flagship Store.

20 60. Brooks Brothers markets and advertises its goods and solicits and
21 consummates sales in Washington state through its three retail stores and in other third-party
22 retail stores located in Washington state.

23 61. Brooks Brothers operates an interactive website and knowingly sends direct
24 solicitations via e-mail to Washington state residents and others in Washington to solicit the
25 sale of its infringing goods and services.

26 COMPLAINT - 20

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

62. The ITU Application contains no limitations on Brooks Brothers' use of the BROOKS mark in connection with the infringing goods and services in Washington state, and, consequently, Brooks Brothers seeks the exclusive right to use the BROOKS mark in connection with the allegedly infringing goods and services in Washington state.

63. On information and belief, Brooks Brothers knows that Brooks is headquartered with numerous employees in Washington state; operates two brick and mortar Brooks stores- its Brooks Flagship Store and the Brooks Outlet Store in Washington state; has retail marketing, advertising and sales at Expo events and "pop-up" stores in Washington state; and all harm to Brooks will be felt in Washington state.

64. Accordingly, this Court has specific personal jurisdiction over Brooks Brothers because Brooks Brothers committed and intends to commit willful acts of trademark infringement, unfair competition and trademark dilution in Washington state, and has purposely availed itself to Washington law by operating three retail stores in Washington state, marketing and selling its products in other retail stores in Washington state, and intentionally soliciting and consummating sales with Washington state residents and other persons in Washington through its highly interactive website.

C. VENUE

65. Venue is proper under 28 U.S.C. § 1391(b)(2).

66. Brooks offers its goods for direct sales to consumers under the Brooks Marks through its website, which is operated, developed, tested and maintained by Brooks employees in Washington state; its flagship retail store called the "Brooks Trailhead" located at 3400 Stone Way North, Seattle, WA 98103 ("Brooks Flagship Store"); its retail outlet store located at 24110 Bothell-Everett Hwy, Bothell, WA 98021 ("Brooks Outlet Store"); Brooks branded stores at Expos in this judicial district; and in retail "pop-up" stores located in this judicial district. Brooks has completed several hundred thousand sales in this judicial district through these channels.

COMPLAINT - 21

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711



COMPLAINT - 22

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

PDX\135106\250279\WFA\27305326.1



COMPLAINT - 23

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

67. Brooks' goods are also sold in third-party retail stores and online stores throughout the United States, including over fifty third-party retail stores in this judicial district.

68. Brooks operates and supports community engagement events in this judicial district such as the November Project, the Brooks Trailhead Running Club (which has over 550 members and has regular group runs starting and ending at the Brooks Flagship Store); sponsorship of the 2018 USA Special Olympics, including sponsorship of two athletes competing in the Special Olympics; the Seattle Running Club (which has several hundred active members); the annual Brooks PR Invitational (an invitation-only track and field contest for the best high school athletes in the country that is regularly held at the University of Washington's Husky Stadium in this judicial district); and the Seattle Rock and Roll Marathon (an infusion of music and running with races of various distances including a marathon that starts and finishes at Seattle Center, taking runners through downtown Seattle, Fremont, over the Ballard Bridge, and past Kerry Park).



COMPLAINT - 24

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

69. Brooks sponsors and endorses numerous professional athletes, including well-known athletes and teams within this judicial district, such as the “Brooks Beasts” (a training group comprised of an elite squad of middle distance runners training in Seattle, Washington), and athletes Allie Ostrander, who won the Mike Frankfurt Women’s 3000 meter race at the 113th New York Road Runners Millrose Games, and Des Linden, winner of the 2018 Boston Marathon.

70. Brooks Brothers is transacting business within this judicial district and intends to commit the acts complained of in this judicial district. Brooks Brothers operates its own retail stores and markets and sells in other third-party retail stores within this judicial district, and does business using its highly interactive website in this judicial district with persons in Washington and with Washington residents. Brooks Brothers has committed, and intends to commit, the acts complained of in this Complaint in this judicial district. Accordingly, Brooks Brothers’ infringing acts have been aimed at and felt within this judicial district.

IV. CLAIMS FOR RELIEF

A. FEDERAL TRADEMARK INFRINGEMENT

71. Brooks repeats and realleges paragraphs 1 through 70 hereof, as if fully set forth herein.

72. Over many decades, Brooks has built a premium brand for outstanding, innovative, premium athletic-related products and services, including footwear, apparel, stores, events, and accessories. The public in the United States and throughout the world associate the Brooks Marks with these athletic-related products and services. Brooks Brothers’ actions alleged herein will confuse consumers and also allow Brooks Brothers to obtain the benefit of Brooks’ long-standing reputation in the marketplace for quality, innovation, and performance.

73. Brooks Brothers’ unauthorized use in commerce of the BROOKS mark claimed in the ITU Application and its BROOKS BROTHERS marks used in connection

COMPLAINT - 25

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 with athletic footwear (collectively, the “Infringing Marks”) as alleged herein is likely to
2 deceive consumers as to the origin, source, sponsorship, or affiliation of Brooks Brothers’
3 athletic footwear, sports bags and retail store and online store services for clothing and
4 sporting goods. Brooks Brothers’ unauthorized use is likely to cause consumers to believe,
5 contrary to fact, that Brooks Brothers’ athletic footwear, sports bags and retail store and
6 online store services for clothing and sporting goods are sold, authorized, endorsed, or
7 sponsored by Brooks, or that Brooks Brothers is in some way affiliated with or sponsored by
8 Brooks. Moreover, Brooks has prior rights in the Brooks Marks in connection with athletic
9 footwear, apparel and accessories as alleged herein. Brooks Brothers’ conduct therefore
10 constitutes trademark infringement in violation of Section 32(1) of the Lanham Act, 15
11 U.S.C. § 1114(1).

12 74. Upon information and belief, Brooks Brothers has committed the foregoing
13 acts of infringement with full knowledge of Brooks’ prior rights in the Brooks Marks and
14 with the willful intent to cause confusion and trade on Brooks’ goodwill.

15 75. Brooks Brothers’ conduct threatens to cause and is causing immediate and
16 irreparable harm and injury to Brooks, and to its goodwill and reputation, and will and
17 continue to both damage Brooks and confuse the public unless enjoined by this court.
18 Brooks has no adequate remedy at law.

19 76. Brooks is entitled to, among other relief, injunctive relief and an award of actual
20 damages, Brooks Brothers’ profits, enhanced damages and profits, reasonable attorneys’ fees,
21 and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117,
22 together with prejudgment and post-judgment interest.

23 77. Brooks Brothers’ continued and threatened use of the Infringing Marks
24 despite its awareness of the Brooks Marks and that it is causing and will cause confusion is
25 extraordinary.

26 COMPLAINT - 26

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

B. FEDERAL UNFAIR COMPETITION

78. Brooks repeats and realleges paragraphs 1 through 77 hereof, as if fully set forth herein.

79. Brooks Brothers' unauthorized use in commerce of the Infringing Marks as alleged herein is likely to deceive consumers as to the origin, source, sponsorship, or affiliation of its athletic footwear, sports bags and retail store and online store services for clothing and sporting goods, and is likely to cause consumers to believe, contrary to fact, that Brooks Brothers' athletic footwear, sports bags and retail store and online store services for clothing and sporting goods are sold, authorized, endorsed, or sponsored by Brooks, or that Brooks Brothers is in some way affiliated with or sponsored by Brooks.

80. Brooks Brothers' unauthorized use in commerce of the Infringing Marks as alleged herein constitutes use of a false designation of origin and misleading description and representation of fact.

81. Upon information and belief, Brooks Brothers' conduct as alleged herein is willful and is intended to and likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Brooks Brothers with Brooks.

82. Brooks Brothers' conduct as alleged herein constitutes unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

83. Brooks Brothers' conduct threatens to cause and is causing immediate and irreparable harm and injury to Brooks, and to its goodwill and reputation, and will continue to both damage Brooks and confuse the public unless enjoined by this court. Brooks has no adequate remedy at law.

84. Brooks Brothers' continued and threatened use of the Infringing Marks despite its awareness of Brooks' Brooks Marks and the harm and confusion that it is causing and will cause is extraordinary.

85. Brooks is entitled to, among other relief, injunctive relief and an award of actual damages, Brooks Brothers' profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

C. FEDERAL TRADEMARK DILUTION

86. Brooks repeats and realleges paragraphs 1 through 85 hereof, as if fully set forth herein.

87. Brooks' Brooks Marks are distinctive and "famous marks" within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

88. Brooks' Brooks Marks became distinctive and famous before Brooks Brothers' acts as alleged herein.

89. Brooks Brothers' acts as alleged herein have diluted and will, unless enjoined, continue to dilute and are likely to dilute the distinctive quality of Brooks' famous Brooks Marks.

90. Brooks Brothers' acts as alleged herein have tarnished and will, unless enjoined, continue to tarnish, and are likely to tarnish Brooks' Brooks Marks by undermining and damaging the valuable goodwill associated therewith.

91. Brooks Brothers' acts as alleged herein are intentional and willful in violation of Section 43(c)(1) of the Lanham Act, 15 U.S.C. § 1125(c)(1), and have already caused Brooks irreparable damage and will, unless enjoined, damage and continue to so damage Brooks, which has no adequate remedy at law.

92. Brooks is entitled to, among other relief, injunctive relief and an award of actual damages, Brooks Brothers' profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

93. Brooks Brothers’ continued and threatened use of the Infringing Marks despite its awareness of Brooks’ Brooks Marks and the harm and confusion that it is causing and will cause is extraordinary.

D. TRADE DRESS INFRINGEMENT

94. Brooks repeats and realleges paragraphs 1 through 93 hereof, as if fully set forth herein.

95. Brooks’ Heritage Collection shoes feature Brooks’ classic athletic styles (“Heritage Collection”). *See* Fig. X. The Heritage Collection is based on Brooks’ famous Vanguard silhouette, which Brooks has been known for as early as 1977.



96. Brooks’ Heritage Collection features the following distinctive elements: (a) a sleek running inspired design; (b) a rubber outsole below a foam midsole extending up to the front of the toe box; (c) the sole curving up towards the toe; (d) a prominently raised heel tab; (e) a leather heel tab on fabric upper; (f) a heel cup wrapped in additional fabric; (g) a lace guard with a rounded bottom; and (h) the lace guard, heel cup and toe cap in a different shade but same color as the upper (collectively, the “Heritage Trade Dress”)

97. Brooks Brothers produces, markets, distributes, offers for sale and sells a shoe that it calls the “Sporty Sneaker” that imitates every element of the Heritage Trade Dress (as shown in Fig. X below).

FIG. X.

Brooks' Heritage Collection Footwear

Brooks Brothers' Sporty Sneaker



Heritage Trade Dress	Sporty Sneaker
Sleek running inspired design	same
Rubber outsole below a foam midsole extending up to the front of the toe box	same
Sole curving up towards the toe	same
Prominently raised heel tab	same
Leather heel tab on fabric upper	same
Heel cup covered with additional fabric	same
Lace guard featuring a rounded bottom	same
Lace guard, heel cup and toe cap in a different shade but same color as the upper	same

COMPLAINT - 30

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 98. The similarities described above show that Brooks Brothers intends the Sporty
2 Sneaker to be a confusingly similar imitation of Brooks' Heritage Collection shoes. The
3 Sporty Sneaker is similar to, and competes with, footwear sold by Brooks, and the parties'
4 respective footwear is sold through overlapping channels of trade. The likelihood of
5 confusion is increased by Brooks Brothers' use of a BROOKS formative mark in connection
6 with the Sporty Sneaker.

7 99. Brooks Brothers' unauthorized use in commerce of the Heritage Trade Dress
8 as alleged herein is likely to deceive consumers as to the origin, source, sponsorship, or
9 affiliation of its Sporty Sneakers, and is likely to cause consumers to believe, contrary to fact,
10 that Brooks Brothers' Sporty Sneakers are sold, authorized, endorsed, or sponsored by
11 Brooks, or that Brooks Brothers is in some way affiliated with or sponsored by Brooks.

12 100. Brooks Brothers' unauthorized use in commerce of the Heritage Trade Dress
13 as alleged herein constitutes use of a false designation of origin and misleading description
14 and representation of fact.

15 101. Upon information and belief, Brooks Brothers' conduct as alleged herein is
16 willful and is intended to and likely to cause confusion, mistake, or deception as to the
17 affiliation, connection, or association of Brooks Brothers with Brooks.

18 102. Brooks Brothers' conduct threatens to cause and is causing immediate and
19 irreparable harm and injury to Brooks, and to its goodwill and reputation, and will and
20 continue to both damage Brooks and confuse the public unless enjoined by this court.
21 Brooks has no adequate remedy at law.

22 103. Brooks Brothers' conduct as alleged herein constitutes unfair competition in
23 violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

24 104. Brooks is entitled to, among other relief, injunctive relief and an award of
25 actual damages, Brooks Brothers' profits, enhanced damages and profits, reasonable
26

attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

E. UNFAIR COMPETITION UNDER RCW § 19.86.020

105. Brooks repeats and realleges paragraphs 1 through 104 hereof, as if fully set forth herein.

106. Brooks Brothers' unfair and deceptive practices have directly and proximately injured Brooks, including causing injury to Brooks' business and property.

107. Brooks Brothers' unfair and deceptive practices have negatively affected and injured the public interest.

108. Brooks Brothers' conduct as alleged herein constitutes unfair competition in violation of Washington's Consumer Protection Act, RCW 19.86.020.

109. Brooks Brothers' conduct threatens to cause and is causing immediate and irreparable harm and injury to Brooks, and to its goodwill and reputation, and will and continue to both damage Brooks and confuse the public unless enjoined by this court. Brooks has no adequate remedy at law.

110. Brooks is entitled to, among other relief, injunctive relief and an award of actual damages, Brooks Brothers' profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action, and an increased award of up to three times its actual damages under RCW 19.86.090, together with prejudgment and post-judgment interest.

F. TRADEMARK DILUTION UNDER RCW § 19.77.160

111. Brooks repeats and realleges paragraphs 1 through 110 hereof, as if fully set forth herein.

112. Brooks owns common law trademark rights in its Brooks Marks and all such rights owned by Brooks are superior to any rights that Brooks Brothers may claim to have in the mark.

1 113. Due to over 100 years of use, and as evidenced by Brooks' impressive
2 commercial success and industry praise of Brooks' goods and services, Brooks' Brooks
3 Marks are famous and distinctive in the state of Washington and have been for many years
4 prior to Brooks Brothers' first sale of any goods or services similar to those offered by
5 Brooks under its Brooks Marks.

6 114. Brooks Brothers' acts as alleged herein are intentional and willful in violation
7 of RCW § 19.77.160, and have already caused Brooks irreparable damage and will, unless
8 enjoined, damage and continue to so damage Brooks, which has no adequate remedy at law.

9 115. Brooks is entitled to, among other relief, injunctive relief under RCW §
10 19.77.160.

11 **G. TRADEMARK INFRINGEMENT UNDER WASHINGTON STATE**
12 **COMMON LAW**

13 116. Brooks repeats and realleges paragraphs 1 through 115 hereof, as if fully set
14 forth herein.

15 117. Brooks owns common law trademark rights in its Brooks Marks and the
16 Heritage Trade Dress and all such rights owned by Brooks are superior to any rights that
17 Brooks Brothers may claim to have in the mark.

18 118. Brooks Brothers' unauthorized use of the Brooks Marks and the Heritage
19 Trade Dress in commerce to advertise and offer goods or services similar to Brooks' goods
20 and services is likely to cause, has caused, and will continue to cause a likelihood of
21 confusion and deception with Brooks' Brooks Marks, or cause confusion, mistake or
22 deception as to the origin of Brooks Brothers' goods and services.

23 119. Brooks Brothers' acts as alleged herein are intentional and willful in violation
24 of Brooks' common law trademark rights under Washington state common law and RCW
25 19.77.900.

1 120. Brooks is entitled to, among other relief, injunctive relief and its actual
2 damages under common law.

3 **H. BREACH OF CONTRACT**

4 121. Brooks repeats and realleges paragraphs 1 through 120 hereof, as if fully set
5 forth herein.

6 122. Brooks Brothers breached Section (1) of the Settlement Agreement when it
7 filed Opposition No. 91,243,962 objecting to Brooks' registration of the trademark BROOKS
8 in connection with athletic footwear.

9 123. Brooks Brothers breached the implied covenants in the Settlement Agreement
10 by filing U.S. Application Serial No. 88/742,542 for the mark BROOKS in connection with
11 all-purpose sport bags and retail store services and online store services featuring clothing
12 and sporting goods.

13 124. Brooks is entitled to, among other relief, injunctive relief and its actual
14 damages, together with the costs and expenses, including reasonable attorneys' fees,
15 sustained during Brooks' defense of Opposition No. 91,243,962 and enforcement of the
16 Settlement Agreement.

17 **V. DEMAND FOR JURY TRIAL**

18 125. Pursuant to Fed. R. Civ. P. 38(b), Brooks requests a trial by jury on all issues.

19 **VI. PRAYER FOR RELIEF**

20 WHEREFORE, Brooks requests judgment against Brooks Brothers as follows:

21 1. That Brooks Brothers has violated Section 32 of the Lanham Act (15 U.S.C. §
22 1114); Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)); and Section 43(c) of the
23 Lanham Act (15 U.S.C. § 1125(c)).

24 2. That Brooks Brothers has violated RCW 19.86.020; RCW § 19.77.160; and
25 RCW 19.77.900.

26 COMPLAINT - 34

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 3. That Brooks Brothers committed Washington state common law trademark
2 infringement and unfair competition.

3 4. That Brooks Brothers breached the Settlement Agreement.

4 5. Declaring that Brooks has the sole and exclusive right to use the term
5 “BROOKS” as a trademark or servicemark in connection with athletic and athletic-related
6 footwear, apparel, accessories, and equipment, and retail store and online store services for
7 the sale of the same.

8 6. Granting an injunction permanently enjoining Brooks Brothers, its employees,
9 agents, officers, directors, attorneys, successors, affiliates, subsidiaries, contractors, and
10 assigns, and all of those in active concert and participation with any of the foregoing persons
11 and entities who receive actual notice of the Court's order by personal service or otherwise
12 from:

13 a. manufacturing, distributing, selling, marketing, advertising, promoting, or
14 authorizing any third party to manufacture, distribute, sell, market, advertise or
15 promote athletic footwear, apparel and accessories bearing the mark BROOKS or any
16 other mark, including Brooks-formative marks and the Heritage Trade Dress, that is a
17 counterfeit, copy, simulation, confusingly similar variation, or colorable imitation of
18 Brooks’ Brooks Marks;

19 b. engaging in any activity that infringes Brooks’ rights in its Brooks Marks and the
20 Heritage Trade Dress;

21 c. engaging in any activity constituting unfair competition with Brooks;

22 d. engaging in any activity that is likely to dilute the distinctiveness of Brooks’
23 Brooks Marks and the Heritage Trade Dress;

24 e. making or displaying any statement, representation, or depiction that is likely to
25 lead the public or the trade to believe that (i) Brooks Brothers’ goods and services are
26 in any manner approved, endorsed, licensed, sponsored, authorized, or franchised by

COMPLAINT - 35

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 or associated, affiliated, or otherwise connected with Brooks or (ii) Brooks' goods
2 and services are in any manner approved, endorsed, licensed, sponsored, authorized,
3 or franchised by or associated, affiliated, or otherwise connected with Brooks
4 Brothers;

5 f. using or authorizing any third-party to any false description, false representation,
6 or false designation of origin, or any marks, names, words, symbols, devices, or trade
7 dress that falsely associate such business, goods and/or services with Brooks or tend
8 to do so;

9 g. selling, offering to sell, distributing, advertising, marketing or manufacturing the
10 Sporty Sneakers as presently designed and/or using any Brooks-formative mark;

11 h. registering or applying to register any trademark, service mark, domain name,
12 trade name, or other source identifier or symbol of origin consisting of or
13 incorporating the mark Brooks, including Brooks-formative marks, or any other mark
14 that infringes or is likely to be confused with the Brooks Marks, or any goods or
15 services of Brooks, or Brooks as their source; and

16 i. aiding, assisting, or abetting any other individual or entity in doing any act
17 prohibited by sub-paragraphs (a) through (h).

18 7. Granting such other and further relief as the Court may deem proper to
19 prevent the public and trade from deriving the false impression that any goods or services
20 manufactured, sold, distributed, licensed, marketed, advertised, promoted, or otherwise
21 offered or circulated by Brooks Brothers are in any way approved, endorsed, licensed,
22 sponsored, authorized, or franchised by or associated, affiliated, or otherwise connected with
23 Brooks or constitute or are connected with Brooks' goods and services.

24 8. Ordering that Brooks Brothers recall and destroy all athletic footwear, apparel
25 and accessories, and related advertisements, promotions, signs, displays, and other materials
26 incorporating or bearing the mark BROOKS or the Heritage Trade Dress or any other mark

COMPLAINT - 36

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 that is a counterfeit, copy, confusingly similar variation, or colorable imitation of Brooks'
2 Brooks Marks or the Heritage Trade Dress.

3 9. Ordering Brooks Brothers to formally abandon with prejudice any and all of
4 its applications to register and registrations for the mark BROOKS, BROOKS-formative
5 marks and any mark consisting of, incorporating, or containing Brooks' Brooks Marks or any
6 counterfeit, copy, confusingly similar variation, or colorable imitation thereof in connection
7 with activewear and athletic footwear, apparel and accessories on any state or federal
8 trademark registry, including, without limitation, U.S. Application Serial Nos. 88/742,542
9 for BROOKS, 87/562,491 for BROOKSTECH and 88/643,092 for BROOKSFLEX, and
10 U.S. Registration Nos. 5,823,029 for BROOKSCLOUD, 4,142,789 for BROOKSCOOL,
11 3,009,280 for BROOKSSTORM, 2,498,929 for BROOKS STRETCH.

12 10. Ordering Brooks Brothers to withdraw with prejudice Opposition No.
13 91,243,962 against U.S. Application Serial No. 87/804,267.

14 11. Ordering, pursuant to Section 35(a) of the Lanham Act (15 U.S.C. § 1116(a)),
15 Brooks Brothers to file with the court and serve upon Brooks' counsel within thirty (30) days
16 after service on Brooks Brothers of an injunction in this action, or such extended period as
17 the court may direct, a report in writing under oath, setting forth in detail the manner and
18 form in which Brooks Brothers has complied therewith.

19 12. Ordering corrective advertisements in a form approved by the Court that
20 informs the public of the violations of the law as Brooks may prove, and to ameliorate the
21 false and deceptive impressions produced by such violations.

22 13. Awarding Brooks an amount up to three times the amount of its actual
23 damages, in accordance with Section 35(a) of the Lanham Act (15 U.S.C. § 1117(a)).

24 14. Ordering that Brooks Brothers account to and pay over to Brooks all profits
25 realized by its wrongful acts in accordance with Section 35(a) of the Lanham Act (15 U.S.C.
26 § 1117(a)), enhanced as appropriate to compensate Brooks for the damages caused thereby.

COMPLAINT - 37

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

1 15. Awarding Brooks punitive and exemplary damages as the court finds
2 appropriate to deter any future willful infringement.

3 16. Declaring that this is an exceptional case pursuant to Section 35(a) of the
4 Lanham Act and awarding Brooks its costs and reasonable attorneys' fees thereunder (15
5 U.S.C. § 1117(a)).

6 17. Awarding Brooks its actual damages sustained, its costs and expenses,
7 including reasonable attorney's fees, and treble damages under RCW 19.86.090.

8 18. Declaring that the Settlement Agreement is terminated and Brooks is excused
9 from all further performance thereunder.

10 19. Awarding Brooks injunctive relief and its actual damages, together with the
11 costs and expenses, including reasonable attorneys' fees, sustained from Brooks' defense of
12 Opposition No. 91,243,962 and enforcement of the Settlement Agreement.

13 20. Awarding Brooks interest, including prejudgment and post-judgment interest,
14 on the foregoing sums.

15 21. Awarding such other and further relief as the Court deems just and proper.

16
17 Dated this 10th day of February, 2020.

18 SCHWABE, WILLIAMSON & WYATT, P.C.

19
20 By: /s/ William F. Abrams
21 William F. Abrams, WSBA #54900
22 Email: wabrams@schwabe.com
23 Nika Aldrich, WSBA #48473
24 Email: naldrich@schwabe.com
25 Balazs Takacs, (*pro hac vice pending*)
26 Email: btakacs@schwabe.com
 Schwabe, Williamson & Wyatt PC
 1420 5th Avenue, Suite 3400
 Seattle, WA 98101-4010
 Telephone: 206-622-1711

Attorneys for Brooks Sports, Inc.

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206.622.1711

COMPLAINT - 38

Exhibit B

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BROOKS SPORTS, INC., a Washington
corporation,

Plaintiff,

v.

BROOKS BROTHERS GROUP, INC., a
Delaware corporation,

Defendant.

Case No. 2:20-cv-00207-TSZ

**BROOKS BROTHERS GROUP,
INC.'S ANSWER, DEFENSES, AND
COUNTERCLAIMS**

JURY DEMAND

Brooks Brothers Group, Inc. ("Brooks Brothers"), by and through its attorneys, Lane Powell and Hodgson Russ LLP (*pro hac vice* pending), for its Answer to the Complaint of Brooks Sports, Inc. ("Brooks Sports") and for its Defenses and Counterclaims, states as follows:

1. Brooks Brothers acknowledges that Brooks Sports has filed a trademark infringement lawsuit, denies that the lawsuit has any merit, and denies the remaining allegations in that paragraph. Brooks Brothers also states that many of the claims asserted in this lawsuit are precluded by the parties' 1980 settlement agreement.

2. Brooks Brothers denies the allegations in paragraph 2.

3. With respect to the allegations in paragraph 3, Brooks Brothers admits that it entered into an agreement with Brooks Sports in 1980, states that the 1980 agreement precludes Brooks Sports' lawsuit (as explained further below), and denies the remaining allegations in that paragraph.

ANSWER, DEFENSES, AND COUNTERCLAIMS
CASE NO. 2:20-CV-00207-TSZ - 1

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4200
P.O. BOX 91302
SEATTLE, WA 98111-9402
206.223.7000 FAX: 206.223.7107

1 4. Brooks Brothers denies the allegations in paragraph 4.

2 5. Brooks Brothers denies the allegations in paragraph 5.

3 6. With respect to the allegations in paragraph 6, Brooks Brothers admits that it filed
4 a trademark application on or about December 30, 2019, states that the trademark application
5 speaks for itself, states that Brooks Sports has misrepresented the content of that trademark
6 application, and denies the remaining allegations in that paragraph.

7 7. Brooks Brothers denies the allegations in paragraph 7.

8 8. Brooks Brothers denies the allegations in paragraph 8.

9 9. Brooks Brothers denies the allegations in paragraph 9.

10 10. With respect to the allegations in paragraph 10, Brooks Brothers acknowledges
11 that Brooks Sports has asserted claims for trademark infringement, unfair competition, and
12 dilution under the Lanham Act, and claims under the common laws of Washington, denies that
13 the claims have any merit, and denies the remaining allegations in that paragraph.

14 11. With respect to the allegations in paragraph 11, Brooks Brothers acknowledges
15 that Brooks Sports seeks injunctive and monetary relief, denies that Brooks Sports is entitled to
16 any such relief, and denies the remaining allegations in that paragraph.

17 12. Brooks Brothers repeats its responses to the allegations incorporated by reference
18 in paragraph 12 of the Complaint.

19 13. With respect to the allegations in paragraph 13, Brooks Brothers denies
20 knowledge and information sufficient to form a belief as to the truth of Brooks Sports' allegations
21 regarding its state of incorporation and principal place of business, and denies the remaining
22 allegations in that paragraph.

23 14. With respect to the allegations in paragraph 14, Brooks Brothers admits that it is
24 a Delaware corporation and that it sells clothing, apparel, and other items throughout the United
25 States under federally-registered trademarks (many of which are incontestable), and denies the
26 remaining allegations in that paragraph.

27
ANSWER, DEFENSES, AND COUNTERCLAIMS
CASE NO. 2:20-CV-00207-TSZ - 2

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4200
P.O. BOX 91302
SEATTLE, WA 98111-9402
206.223.7000 FAX: 206.223.7107

133100.0001/7985435.2

1 15. Brooks Brothers repeats its responses to the allegations incorporated by reference
2 in paragraph 15 of the Complaint.

3 16. Brooks Brothers lacks knowledge and information sufficient to form a belief as
4 to the truth of the allegations in paragraph 16, and therefore, Brooks Brothers denies the
5 allegations.

6 17. Brooks Brothers denies the allegations in paragraph 17.

7 18. Brooks Brothers denies the allegations in paragraph 18.

8 19. Brooks Brothers lacks knowledge and information sufficient to form a belief as
9 to the truth of the allegations in paragraph 19, and therefore, Brooks Brothers denies the
10 allegations.

11 20. Brooks Brothers lacks knowledge and information sufficient to form a belief as
12 to the truth of the allegations in paragraph 20, and therefore, Brooks Brothers denies the
13 allegations.

14 21. Brooks Brothers lacks knowledge and information sufficient to form a belief as
15 to the truth of the allegations in paragraph 21, and therefore, Brooks Brothers denies the
16 allegations.

17 22. Brooks Brothers lacks knowledge and information sufficient to form a belief as
18 to the truth of the allegations in paragraph 22, and therefore, Brooks Brothers denies the
19 allegations.

20 23. Brooks Brothers lacks knowledge and information sufficient to form a belief as
21 to the truth of the allegations in paragraph 23, and therefore, Brooks Brothers denies the
22 allegations.

23 24. Brooks Brothers lacks knowledge and information sufficient to form a belief as
24 to the truth of the allegations in paragraph 24, and therefore, Brooks Brothers denies the
25 allegations.

26 25. Brooks Brothers denies the allegations in paragraph 25.

27 26. Brooks Brothers denies the allegations in paragraph 26.

ANSWER, DEFENSES, AND COUNTERCLAIMS
CASE NO. 2:20-CV-00207-TSZ - 3

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4200
P.O. BOX 91302
SEATTLE, WA 98111-9402
206.223.7000 FAX: 206.223.7107

1 27. With respect to the allegations in paragraph 27, Brooks Brothers admits that it
2 sells certain products through a website located at www.brooksbrothers.com, and denies the
3 remaining allegations in that paragraph.

4 28. With respect to the allegations in paragraph 28, Brooks Brothers admits that it
5 sells goods in retail stores in various States under federally-registered trademarks, admits that it
6 maintains retail stores in Washington, and denies the remaining allegations in that paragraph.

7 29. With respect to the allegations in paragraph 29, Brooks Brothers admits that it
8 markets and advertises certain products to consumers in Washington, and denies the remaining
9 allegations in that paragraph.

10 30. With respect to the allegations in paragraph 30, Brooks Brothers admits that it
11 sells certain products to third-party retail stores in Washington, and denies the remaining
12 allegations in that paragraph.

13 31. Brooks Brothers denies the allegations in paragraph 31.

14 32. With respect to the allegations in paragraph 32, Brooks Brothers admits that
15 Brooks Sports has only sold athletic-related goods, and denies the remaining allegations in that
16 paragraph.

17 33. With respect to the allegations in paragraph 33, Brooks Brothers admits that it has
18 not, and does not, use the term BROOKS as a trademark on athletic footwear, and denies the
19 remaining allegations in that paragraph.

20 34. With respect to the allegations in paragraph 34, Brooks Brothers admits that
21 Brooks Brothers and Brooks Sports coexisted for an extended period, states that the parties
22 coexisted for a certain period under a 1980 coexistence settlement agreement, and denies the
23 remaining allegations in that paragraph.

24 35. With respect to the allegations in paragraph 35, Brooks Brothers admits that this
25 lawsuit does not present the first dispute between Brooks Brothers and Brooks Sports concerning
26 Brooks Sports' breaches of the 1980 agreement and Brooks Sports' trademark infringement, and
27 denies the remaining allegations in that paragraph.

ANSWER, DEFENSES, AND COUNTERCLAIMS
CASE NO. 2:20-CV-00207-TSZ - 4

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4200
P.O. BOX 91302
SEATTLE, WA 98111-9402
206.223.7000 FAX: 206.223.7107

1 36. With respect to the allegations in paragraph 36, Brooks Brothers admits that it
2 filed an opposition action in the United States Patent and Trademark Office (the “USPTO”)
3 against a Brooks Sports’ trademark application for the mark BROOKS in connection with athletic
4 shoes, and denies the remaining allegations in that paragraph.

5 37. With respect to the allegations in paragraph 37, Brooks Brothers admits that, on
6 or about January 16, 1980, Brooks Brothers and Brooks Sports entered into a settlement
7 agreement that resolved Opposition No. 91,060,319, admits that the 1980 settlement agreement
8 is of indefinite duration, states that Brooks Sports has willfully breached that agreement (as
9 discussed in detail below), and denies the remaining allegations in that paragraph.

10 38. With respect to the allegations in paragraph 38, Brooks Brothers states that the
11 1980 settlement agreement speaks for itself, and denies the remaining allegations in that
12 paragraph.

13 39. With respect to the allegations in paragraph 39, Brooks Brothers states that the
14 1980 settlement agreement speaks for itself, and denies any allegations that are contrary to the
15 1980 settlement agreement.

16 40. With respect to the allegations in paragraph 40, Brooks Brothers states that the
17 1980 settlement agreement speaks for itself, and denies the remaining allegations in that
18 paragraph.

19 41. Brooks Brothers denies the allegations in paragraph 41.

20 42. With respect to the allegations in paragraph 42, Brooks Brothers admits that
21 Brooks Brothers and Brooks Sports attempted to resolve their dispute concerning Brooks
22 Brothers’ Opposition No. 91,243,962, and denies the remaining allegations in that paragraph.

23 43. Brooks Brothers admits the allegations in paragraph 43.

24 44. Brooks Brothers denies the allegations in paragraph 44.

25 45. Brooks Brothers denies the allegations in paragraph 45.

26 46. Brooks Brothers denies the allegations in paragraph 46.

27 47. Brooks Brothers denies the allegations in paragraph 47.

1 48. With respect to the allegations in paragraph 48, Brooks Brothers admits that it
2 filed Trademark Application No. 88/742,542, states that the application speaks for itself, and
3 denies the remaining allegations in that paragraph.

4 49. With respect to the allegations in paragraph 49, Brooks Brothers states that
5 Application No. 88,742,542 speaks for itself, and denies the remaining allegations in that
6 paragraph.

7 50. With respect to the allegations in paragraph 50, Brooks Brothers admits that it has
8 filed BROOKS-formative federal trademark applications, states that those trademark
9 applications speak for themselves, and denies the remaining allegations in that paragraph.

10 51. Brooks Brothers denies the allegations in paragraph 51.

11 52. Brooks Brothers denies the allegations in paragraph 52.

12 53. Brooks Brothers denies the allegations in paragraph 53.

13 54. Brooks Brothers denies the allegations in paragraph 54.

14 55. Brooks Brothers repeats its responses to the allegations incorporated by reference
15 in paragraph 55 of the Complaint.

16 56. Brooks Brothers lacks knowledge and information sufficient to form a belief as
17 to the truth of the allegations in paragraph 56, and therefore, Brooks Brothers denies the
18 allegations.

19 57. The allegations in paragraph 57 are legal conclusions to which no response is
20 required, and to the extent that a response is required, Brooks Brothers denies the allegations.

21 58. The allegations in paragraph 58 are legal conclusions to which no response is
22 required, and to the extent that a response is required, Brooks Brothers denies the allegations.

23 59. Brooks Brothers denies the allegations in paragraph 59.

24 60. Brooks Brothers admits the allegations in paragraph 60.

25 61. Brooks Brothers denies the allegations in paragraph 61.

26 62. With respect to the allegations in paragraph 62, Brooks Brothers states that its
27 trademark application speaks for itself, and denies the remaining allegations in that paragraph.

63. Brooks Brothers denies the allegations in paragraph 63.

64. Brooks Brothers denies the allegations in paragraph 64.

65. The allegations in paragraph 65 are legal conclusions to which no response is required, and to the extent that a response is required, Brooks Brothers denies the allegations.

66. Brooks Brothers lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 66, and therefore, Brooks Brothers denies the allegations.

67. Brooks Brothers lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 67, and therefore, Brooks Brothers denies the allegations.

68. Brooks Brothers lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 68, and therefore, Brooks Brothers denies the allegations.

69. Brooks Brothers lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 69, and therefore, Brooks Brothers denies the allegations.

70. Brooks Brothers denies the allegations in paragraph 70.

71. Brooks Brothers repeats its responses to the allegations incorporated by reference in paragraph 71 of the Complaint.

72. Brooks Brothers denies the allegations in paragraph 72.

73. Brooks Brothers denies the allegations in paragraph 73.

74. Brooks Brothers denies the allegations in paragraph 74.

75. Brooks Brothers denies the allegations in paragraph 75.

76. Brooks Brothers denies the allegations in paragraph 76.

77. Brooks Brothers denies the allegations in paragraph 77.

78. Brooks Brothers repeats its responses to the allegations incorporated by reference in paragraph 78 of the Complaint.

ANSWER, DEFENSES, AND COUNTERCLAIMS
CASE NO. 2:20-CV-00207-TSZ - 7

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4200
P.O. BOX 91302
SEATTLE, WA 98111-9402
206.223.7000 FAX: 206.223.7107

- 1 79. Brooks Brothers denies the allegations in paragraph 79.
- 2 80. Brooks Brothers denies the allegations in paragraph 80.
- 3 81. Brooks Brothers denies the allegations in paragraph 81.
- 4 82. Brooks Brothers denies the allegations in paragraph 82.
- 5 83. Brooks Brothers denies the allegations in paragraph 83.
- 6 84. Brooks Brothers denies the allegations in paragraph 84.
- 7 85. Brooks Brothers denies the allegations in paragraph 85.
- 8 86. Brooks Brothers repeats its responses to the allegations incorporated by reference
- 9 in paragraph 86 of the Complaint.
- 10 87. Brooks Brothers denies the allegations in paragraph 87.
- 11 88. Brooks Brothers denies the allegations in paragraph 88.
- 12 89. Brooks Brothers denies the allegations in paragraph 89.
- 13 90. Brooks Brothers denies the allegations in paragraph 90.
- 14 91. Brooks Brothers denies the allegations in paragraph 91.
- 15 92. Brooks Brothers denies the allegations in paragraph 92.
- 16 93. Brooks Brothers denies the allegations in paragraph 93.
- 17 94. Brothers repeats its responses to the allegations incorporated by reference in
- 18 paragraph 94 of the Complaint.
- 19 95. Brooks Brothers denies the allegations in paragraph 95.
- 20 96. Brooks Brothers denies the allegations in paragraph 96.
- 21 97. Brooks Brothers denies the allegations in paragraph 97.
- 22 98. Brooks Brothers denies the allegations in paragraph 98.
- 23 99. Brooks Brothers denies the allegations in paragraph 99.
- 24 100. Brooks Brothers denies the allegations in paragraph 100.
- 25 101. Brooks Brothers denies the allegations in paragraph 101.
- 26 102. Brooks Brothers denies the allegations in paragraph 102.
- 27 103. Brooks Brothers denies the allegations in paragraph 103.

ANSWER, DEFENSES, AND COUNTERCLAIMS
CASE NO. 2:20-CV-00207-TSZ - 8

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4200
P.O. BOX 91302
SEATTLE, WA 98111-9402
206.223.7000 FAX: 206.223.7107

104. Brooks Brothers denies the allegations in paragraph 104.

105. Brooks Brothers repeats its responses to the allegations incorporated by reference in paragraph 105 of the Complaint.

106. Brooks Brothers denies the allegations in paragraph 106.

107. Brooks Brothers denies the allegations in paragraph 107.

108. Brooks Brothers denies the allegations in paragraph 108.

109. Brooks Brothers denies the allegations in paragraph 109.

110. Brooks Brothers denies the allegations in paragraph 110.

111. Brooks Brothers repeats its responses to the allegations incorporated by reference in paragraph 111 of the Complaint.

112. Brooks Brothers denies the allegations in paragraph 112.

113. Brooks Brothers denies the allegations in paragraph 113.

114. Brooks Brothers denies the allegations in paragraph 114.

115. Brooks Brothers denies the allegations in paragraph 115.

116. Brooks Brothers repeats its responses to the allegations incorporated by reference in paragraph 116 of the Complaint.

117. Brooks Brothers denies the allegations in paragraph 117.

118. Brooks Brothers denies the allegations in paragraph 118.

119. Brooks Brothers denies the allegations in paragraph 119.

120. Brooks Brothers denies the allegations in paragraph 120.

121. Brooks Brothers repeats its responses to the allegations incorporated by reference in paragraph 121 of the Complaint.

122. Brooks Brothers denies the allegations in paragraph 122.

123. Brooks Brothers denies the allegations in paragraph 123.

124. Brooks Brothers denies the allegations in paragraph 124.

125. Brooks Brothers denies each and every allegation not specifically addressed in the preceding paragraphs of this Answer.

ANSWER, DEFENSES, AND COUNTERCLAIMS
CASE NO. 2:20-CV-00207-TSZ - 9

133100.0001/7985435.2

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4200
P.O. BOX 91302
SEATTLE, WA 98111-9402
206.223.7000 FAX: 206.223.7107

DEFENSES

First Defense

126. Brooks Sports' Complaint fails to state a claim upon which relief can be granted.

Second Defense

127. Brooks Sports' claims are barred by the parties' 1980 settlement agreement.

Third Defense

128. Brooks Sports' claims are barred because Brooks Sports breached the parties' 1980 settlement agreement.

Fourth Defense

129. Brooks Sports' claims are moot and present no justiciable claim.

Fifth Defense

130. Brooks Brothers' filing of trademark applications does not constitute trademark use or infringement and does not create a justiciable controversy. Brooks Brothers' alleged intent to use trademark applications does not constitute trademark use or infringement and does not create a justiciable controversy.

Sixth Defense

131. Brooks Sports' claims are barred by the doctrines of waiver, laches, and estoppel. Brooks Sports is estopped from pursuing its claims under the parties' 1980 settlement agreement.

Seventh Defense

132. Brooks Sports' claims are barred, in whole in part, by the doctrine of unclean hands.

Eighth Defense

133. Brooks Sports has failed to mitigate its alleged damages, if any.

Ninth Defense

134. Brooks Sports' purported "Heritage Trade Tress" has not acquired any secondary meaning, and therefore, it is unregistrable, invalid, and unprotectable.

Tenth Defense

135. Brooks Sports cannot show that the “Heritage Trade Dress” acquired secondary meaning prior to any allegedly infringing use by Brooks Brothers.

Eleventh Defense

136. Any prior use by Brooks Sports of the alleged “Heritage Trade Dress” was not substantially exclusive.

Twelfth Defense

137. Brooks Sports’ purported “Heritage Trade Dress” is unregistrable, invalid, and unprotectable under the doctrine of utilitarian functionality.

Thirteenth Defense

138. The accused Brooks Brothers footwear is not substantially similar to the “Heritage Trade Dress.”

Fourteenth Defense

139. There is no likelihood of confusion between Brooks Sports purported trade dress and the accused footwear products.

Fifteenth Defense

140. Brooks Brothers’ actions in the alleged Complaint were innocent and non-willful.

Sixteenth Defense

141. Except with respect to athletic footwear, the BROOKS word mark is primarily merely a surname and has not acquired any secondary meaning that can be claimed by Brooks Sports.

Seventeenth Defense

142. Except with respect to athletic footwear, the BROOKS word mark is unregistrable, invalid, and unprotectable to Brooks Sports.

Eighteenth Defense

143. Brooks Sports is not entitled to injunctive relief because any alleged injury to Brooks Sports is not immediate or irreparable, and Brooks Sports has an adequate remedy at law.

Nineteenth Defense

144. Brooks Sports' claims are barred because Brooks Brothers has trademark priority.

Twentieth Defense

145. Brooks Sports' claims are barred because Brooks Brothers is the owner of prior BROOKS and BROOKS-formative registrations, as set forth on Exhibit 1, and many of the prior registrations are incontestable.

Twenty-first Defense

146. Brooks Sports' alleged trademarks are not famous or distinctive, and as a result, Brooks Sports' dilution and tarnishment claims are barred.

RESERVATION OF RIGHTS

147. Brooks Brothers reserves its right to assert other defenses as they may become available or apparent during the course of discovery.

COUNTERCLAIMS

Overview of the Action

148. This dispute arises out of Brooks Sports' bad-faith breach of a long-standing coexistence agreement with Brooks Brothers and Brooks Sports' willful infringement of Brooks Brothers' trademark rights.

149. Brooks Brothers is an iconic brand founded in 1818. It is the oldest apparel company in the United States and a world-renowned fashion innovator. While famous for its clothing offerings and related retail services, Brooks Brothers is also well-known as a lifestyle brand, which markets and sells footwear, eyewear, bags, jewelry, watches, sports articles, games, personal care items, tableware, fragrances, bedding, linens, food items, beverages, and more.

150. Brooks Brothers started using the trademark BROOKS BROTHERS on its clothing and in connection with retail services as early as 1854. Brooks Brothers owns numerous

1 trademark registrations in the United States Patent and Trademark Office (“USPTO”) that are
 2 comprised of BROOKS BROTHERS or BROOKS for various goods and services—the earliest
 3 of which registered in 1915 for a myriad of clothing articles and footwear. Brooks Brothers has
 4 long been known by consumers as BROOKS as a result of the company’s marketing campaigns
 5 that refer to the brand as BROOKS. Brooks Brothers has reinforced this branding message
 6 through its use of the BROOKS BROTHERS trademark and its numerous BROOKS-formative
 7 marks.

8 151. Brooks Sports, formerly known as “BRUXSHU” and “Brooks Shoe,” sells only
 9 running shoes and clothing used in the sport of running. Its ecommerce site,
 10 www.brooksrunning.com, is dedicated solely to footwear and running apparel. Upon
 11 information and belief, Brooks Sports first started selling running shoes in the 1970s—over a
 12 century after Brooks Brothers’ adoption and use of the BROOKS BROTHERS mark, and about
 13 sixty years after the first BROOKS BROTHERS trademark registration for clothing and
 14 footwear.

15 152. In 1977, Brooks Sports filed its first trademark application with the USPTO.
 16 Brooks Sports sought protection for the word BROOKS alone (not joined with another word or
 17 symbol) in connection with athletic shoes. Brooks Brothers opposed that application before the
 18 Trademark Trial and Appeal Board (“TTAB”) based on its numerous preexisting BROOKS-
 19 formative registrations.

20 153. To resolve the dispute before TTAB and to memorialize an understanding on
 21 coexisting trademark use and filings, the parties entered into a settlement agreement in 1980 (the
 22 “1980 Agreement”), which is attached as Exhibit 2.

23 154. One of the principal objectives of the 1980 Agreement was to govern the parties’
 24 use of the word BROOKS alone. To that end, under the 1980 Agreement, the parties agreed to
 25 the following principal terms:

26 (a) Brooks Brothers would not object to Brooks Sports’ use or registration of
 27 the word BROOKS, as a stand-alone mark, solely in connection with athletic

shoes. Brooks Sports would only use or apply for a stand-alone BROOKS word mark in connection with athletic shoes. *See, e.g.*, Ex. 2 ¶ 1.

(b) Brooks Sports would not object to Brooks Brothers' use or registration of BROOKS, as a stand-alone mark, in connection with clothing and footwear not classified as athletic shoes. *See, e.g.*, Ex. 2 ¶ 2.

(c) Brooks Sports could use or seek to register the word BROOKS in connection with certain athletic clothing, but *only if* Brooks Sports closely joined that word with another word or symbol (*i.e.*, if it used BROOKS within a composite mark). *See, e.g.*, Ex. 2 ¶ 3.

(d) Brooks Sports would abide by specific use parameters designed to ensure that the word BROOKS would not be featured by Brooks Sports as a stand-alone mark. *See, e.g.*, Ex. 2 ¶ 3.

155. In 2018 and 2020, Brooks Sports willfully breached the 1980 Agreement by filing trademark applications for the word mark BROOKS alone, without joining any symbol or other word, to be used in connection with athletic clothing. Brooks Sports also breached the 1980 Agreement by offering for sale and selling clothing emblazoned with the mark BROOKS, without a symbol or second term (the "Breaching Goods").

156. For nearly two years, Brooks Brothers tried to resolve the dispute in good faith and requested Brooks Sports' compliance with the 1980 Agreement. But Brooks Sports refused to honor its contract.

157. Brooks Sports then filed this preemptive lawsuit, which constitutes yet another breach of the 1980 Agreement. In its Complaint, Brooks Sports seeks to prevent Brooks Brothers from using the word BROOKS in connection with the sale of athletic clothing and apparel (Complaint ¶¶ 48-52), even though Brooks Sports expressly agreed in paragraph 2 of the 1980 Agreement that it would "not object to the use and registration by BROOKS BROTHERS for the entire world of the Trademark or Service Mark BROOKS or BROOKS BROTHERS in connection with services related to the sale of *clothing . . .*." *See* Ex. 2 ¶ 2 (emphasis added).

158. As a result, Brooks Brothers now seeks relief in this Court to remedy Brooks Sports' breach and trademark infringement and to prevent further harm.

1 The Parties and Jurisdiction

2 159. Brooks Brothers (the successor-in-interest to Garfinckel, Brooks Brothers, Miller
3 & Rhoads, Inc.) is a Delaware Corporation with a principal place of business in New York, New
4 York. Brooks Brothers markets and sells lifestyle goods and apparel, including, but not limited
5 to, clothing, footwear, eyewear, bags, jewelry, watches, sports articles, games, personal care
6 items, tableware, fragrances, bedding, linens, food items, beverages, and more.

7 160. Brooks Sports (the successor in interest to Brooks Shoe Manufacturing Company)
8 is a Washington corporation with a principal place of business in Seattle, Washington. Brooks
9 Sports was founded as a ballet shoe and water shoe company. It began selling running shoes in
10 the 1970s under the name BRUXSHU.

11 161. Brooks Sports is subject to general personal jurisdiction in Washington because
12 it is a Washington corporation with a principal place of business in Washington.

13 162. Venue is proper under 28 U.S.C. Section 1392(b)(1).

14 **THE FACTS**

15 **I. Brooks Brothers' Famous Brand and Trademarks**

16 163. Brooks Brothers started using the trademark BROOKS BROTHERS on its
17 clothing, and in connection with retail store services, as early as 1854. Its first trademark
18 registration for clothing and footwear (among other things) issued in 1915.

19 164. Today, Brooks Brothers owns many registrations for BROOKS-formative marks
20 in the United States and throughout the world, including but not limited to: BROOKS BOYS,
21 THE BROOKS CARD, MY BROOKS REWARDS, BROOKSGATE, BROOKSTWEED,
22 BROOKSCLOUD, BROOKSCOOL, BROOKSSTORM, BROOKS-AIRE, and BROOKS
23 STRETCH.

24 165. These registrations cover a wide variety of goods and services, including clothing
25 and footwear, jewelry, bags and luggage, sporting goods, home furnishings, fragrances, and retail
26 store services.

1 166. A summary table that identifies Brooks Brothers' registered trademarks is
2 attached as Exhibit 1, along with copies of the corresponding registration certificates. Each of
3 the trademarks noted with an asterisk is incontestable under 15 U.S.C. §§ 1065 and 1115(b).
4 Brooks Brothers also owns the common law rights in the identified trademarks and the mark
5 BROOKS. Brooks Brothers' registered and common-law trademarks are referred to collectively
6 as the "Trademarks."

7 167. The Trademarks are in full force and effect. The Trademarks and associated
8 goodwill have never been abandoned. Brooks Brothers intends to continue to use, preserve, and
9 maintain its rights in the Trademarks.

10 168. Brooks Brothers owns and operates more than 250 retail stores in the United
11 States and more than 500 store locations in 45 countries around the world.

12 169. Brooks Brothers spends millions of dollars each year to advertise and promote
13 products offered for sale and sold under the Trademarks. For example, Brooks Brothers'
14 products are advertised and promoted through print media, social media, outdoor advertising, on
15 the radio, and through sponsorship of various sporting events, music events, and charitable
16 events.

17 170. For nearly a century, a Brooks Brothers' advertisement has appeared daily on page
18 two of *The New York Times*. Copies of these advertisements also appeared generally in *The*
19 *Boston Globe*, *The Los Angeles Times*, *The Chicago Tribune* and *The Washington Post*. Brooks
20 Brothers' archives includes unsolicited media coverage referencing Brooks Brothers within
21 articles authored by third parties since 1857.

22 171. Before the launch of Brooks Brothers' e-commerce website, Brooks Brothers'
23 sales catalogs were distributed to nearly one million households and businesses throughout the
24 United States.

25 172. Brooks Brothers' shirts have repeatedly been top rated in *Consumer Reports*.

26 173. Brooks Brothers has clothed 40 out of 45 U.S. Presidents.
27

174. Brooks Brothers' clothes are often adorned by celebrities and "A-listers" to award shows and high profile events, including the Academy Awards.

175. Brooks Brothers clothing and stores can be found within hundreds of movies, television shows, and Broadway musicals, including, but not limited to: *Mad Men*; *Saturday Night Live*; *The Colbert Report*; *The Graduate*; *The Great Debaters*; *In the Heat of the Night*; *Pearl Harbor*; *Royal Tenenbaums*; *Ali*; *Up in the Air*; *The Adjustment Bureau*; *The Muppets*; *Argo*; *Slumdog Millionaire*; *The Great Gatsby*; *Parks and Recreation*; *The Shadow*; *Promises, Promises*; *How to Succeed in Business*; *Finding Neverland*; *Love Letters*; *West Side Story*; *How to get away with Murder*; *Scandal*; *The Americans*; *Manifest*; *Blacklist*; *The Politician*; *American Horror Story (all seasons)*; *Law & Order SVU*; *Prodigal Son*; *Bosch*; *Goliath*; *Good Girls*; *Glee*; *Gossip Girl*; *Billions*; and *Succession*.

176. Brooks Brothers is the selected outfitter and designer for various uniforms and dress, including, for example, Jazz at Lincoln Center, the Inter Milan Soccer Team, the Olympiacos Football Club, the Japan Samurai baseball team, and the New York Yacht Club.

177. Brooks Brothers has entered into various sports ambassadorship agreements to promote the Trademarks, including agreements with professional athletes, such as Taylor Leon and James Driscoll.

178. Brooks Brothers has used the Trademarks in sponsorship of various sporting events and/or co-branded product lines, including the Head of the Charles Regatta, the Churchill Downs/Kentucky Derby, the PGA St. Jude Classic, Pebble Beach the Concours D'Elegance, St. Andrews Links and the International Tennis Hall of Fame.

179. Brooks Brothers uses the Trademarks in connection with philanthropic activities for St. Jude Children's Hospital, the Make A Wish Foundation, the American Red Cross, and others.

180. Throughout the company's history, customers, the media, and authors of famous literary works have referred to Brooks Brothers as "BROOKS," and Brooks Brothers has

1 routinely referred to itself as “BROOKS” on its website and in advertising, such that BROOKS
2 is synonymous with BROOKS BROTHERS.

3 181. The federal judiciary has recognized that “BROOKS” is a source indicator for
4 Brooks Brothers. In 1945, when Brooks Brothers filed a trademark infringement lawsuit against
5 Brooks Clothing of California, the U.S. District Court for the Southern District of California
6 ruled in Brooks Brothers’ favor and found that the word “BROOKS,” without “BROTHERS,”
7 had become the identification mark of Brooks Brothers and its clothes:

8 [A]s the plaintiff, over a long period of years, has used “Brooks
9 Brothers” as a tradename and mark, and has had, since 1915, a
10 federal registration, and the plaintiff and the family which began
11 the business a century and a quarter ago, having used the name
12 “Brooks” in one form or another, which use was accompanied by
13 extensive nation-wide advertising and solicitation of custom and
14 fair dealings with customers in most of the states in the Union, the
15 good will engendered by the word “Brooks” and by these practices
16 belong to it. More, it has created a condition where, to use the
17 language of the Restatement of Torts, “confusion of source” is
18 inherent in the use of the word “Brooks” by anyone but the
19 plaintiff.

20 *See Exhibit 3.*

21 182. As a result of Brooks Brothers’ remarkable success, it has become one of the
22 largest and best-known apparel companies in the United States and in the world.

23 183. Due to Brooks Brothers’ exclusive and extensive use of the Trademarks, the
24 marks have acquired enormous value, recognition, and goodwill in the United States and
25 throughout the world. The Trademarks are well known to the consuming public and trade as
26 identifying and distinguishing Brooks Brothers, exclusively and uniquely, as the source of origin
27 of the high-quality products to which the Trademarks are applied.

184. The Trademarks qualify as famous marks under 15 U.S.C. §1125(c)(1).

185. The Trademarks have achieved secondary meaning throughout the world,
including in the United States, as an identifier of origin, relationship, sponsorship, or association
with Brooks Brothers.

186. Due to the widespread sale of Brooks Brothers' goods and celebrity that the Trademarks have achieved, Brooks Brothers' goods and the Trademarks are recognized by the public and the trade as originating from a single source: Brooks Brothers Group, Inc.

187. While Brooks Brothers sells tailored clothing, shirts, pants, and related articles, it is also an innovator and seller of sportswear.

188. Brooks Brothers has sold sportswear under the Trademarks since the 1800s. The company marketed its "sporting department" in an advertisement in 1939.

189. Brooks Brothers is credited with bringing to the United States the first polo shirt, as well as designing and selling tennis clothing, ski clothing, swimwear, and golf apparel, which continues to be popular among customers today.

190. Brooks Brothers has also marketed and sold sports shoes, golf balls, golf tees, golf tools, golf bags, croquet sets, hunting apparel, and custom polo gear.

II. The 1980 Agreement and the Parties' Course of Dealing

191. Brooks Sports, originally known as BRUXSHU and later as Brooks Shoe, was founded as a company that sold water shoes and ballet shoes. The company's website celebrates the brand's history of selling under the name BRUXSHU in the early-to-mid 1900s.

192. Upon information and belief, Brooks Sports first started selling running shoes in the 1970s.

193. In 1977—over 62 years after the first BROOKS BROTHERS trademark registration for clothing and footwear and over 100 years after Brooks Brothers started using its Trademarks in commerce —Brooks Sports filed a trademark application in the USPTO for the word mark BROOKS in connection with athletic shoes. Brooks Sports had knowledge of Brooks Brothers' Trademarks before Brooks Sports' use and adoption of the name BROOKS.

194. On the basis of its prior rights in BROOKS, and registrations for BROOKS-formative marks in relation to clothing and footwear, Brooks Brothers opposed the 1977 BROOKS application for athletic shoes before the TTAB.

1 195. To resolve the TTAB proceeding, and to memorialize a path forward for the two
2 companies to coexist in the marketplace and on trademark registers, the parties entered into the
3 1980 Agreement (Ex. 2).

4 196. The 1980 Agreement was signed by Garfinckel, Brooks Brothers, Miller &
5 Rhoads, Inc., on the one hand, and Brooks Shoe Manufacturing Company, Inc., on the other.
6 Brooks Brothers is a successor to Garfinckel, Brooks Brothers, Miller & Rhoads, Inc. Brooks
7 Sports is a successor to Brooks Shoe Manufacturing Company, Inc. Brooks Brothers and Brooks
8 Sports are therefore bound by the terms of the 1980 Agreement.

9 197. In the introductory paragraphs of the 1980 Agreement, Brooks Sports
10 acknowledged Brooks Brothers' longstanding ownership of the BROOKS BROTHERS and
11 BROOKS marks. One of the principal objectives of the 1980 Agreement was to govern the
12 parties' use and registration of word BROOKS alone. To that end, under the 1980 Agreement,
13 Brooks Sports and Brooks Brothers agreed to several covenants whereby (1) each party promised
14 not to object to certain activity and (2) each party promised not to use or seek registration of
15 certain marks.

16 198. Under the 1980 Agreement, Brooks Brothers agreed not to object to Brooks
17 Sports' use or registration of the word BROOKS, as a stand-alone mark, solely in connection
18 with athletic shoes. Brooks Sports agreed that it would only use or apply for a
19 stand-alone BROOKS word mark in connection with athletic shoes. *See, e.g.*, Ex. 2 ¶ 1.

20 199. Under the 1980 Agreement, Brooks Sports agreed not to object to Brooks
21 Brothers' use or registration of BROOKS, as a stand-alone mark, in connection with clothing and
22 footwear not classified as athletic shoes. *See, e.g.*, Ex. 2 ¶ 2.

23 200. Under the 1980 Agreement, Brooks Sports agreed that, to the extent it used or
24 sought to register a mark including the word BROOKS in connection with athletic clothing or
25 athletic equipment, it would closely join that word with a symbol or other word. *See, e.g.*, Ex. 2
26 ¶ 3.

201. Under paragraph 4 of the 1980 Agreement, Brooks Sports agreed to abide by specific use parameters. These use parameters were designed to avoid confusion in the marketplace and to ensure that the word BROOKS would not be featured by Brooks Sports as a separate or stand-alone mark on Brooks' Sports athletic clothing and equipment:

[T]he use by Brooks Shoe of the second word or symbol together with the word BROOKS shall be under such conditions that the word BROOKS will be fairly and closely associated with the second word or symbol and that the size of the letters in the word BROOKS shall be of a height not greater than twice the height of the second word or of the symbol. Where Brooks Shoe uses a symbol together with the word BROOKS, such symbol shall be of a height at least equal to the height of the letters of the word BROOKS.

Ex. 2 ¶ 4.

202. The language and intent of the 1980 Agreement was clear: Brooks Sports could use or seek to register the word BROOKS as a stand-alone mark in connection with athletic shoes; Brooks Brothers could use or seek to register the word BROOKS as a stand-alone mark in connection with clothing and footwear, as long as the footwear was not classified as athletic shoes; Brooks Sports could use or seek to register the word BROOKS in connection with athletic clothing, but only as a composite mark—that is, closely joined with a symbol or other word.

203. The parties' course of dealing confirmed this understanding. For many years after the 1980 Agreement, Brooks Sports sold only running shoes. During the period of 1983 to 2000, Brooks Sports filed several trademark applications for athletic equipment or clothing that incorporated the word BROOKS, but in every instance, the word was joined with a symbol that Brooks Sports refers to as its "Path Logo." *See, e.g.*, U.S. Trademark Application Serial Nos. 73425026; 73425027; 74280580; 74046570; and 75932902. *See* Exhibit 4.

204. On several occasions, Brooks Sports acknowledged its obligations under the 1980 Agreement by abandoning trademark applications or limiting its marketplace conduct. For example:

(a) In October 2004, Brooks Sports filed a U.S. trademark application (Serial No. 78508128) for BROOKS as a stand-alone word mark for water-bottle holsters

and for athletic bags, gym bags, backpacks, fanny packs, and fanny packs with water holders. This application violated the 1980 Agreement. After Brooks Brothers challenged Brooks Sports' breach, Brooks Sports expressly abandoned the application and acknowledged its obligations under the 1980 Agreement.

(b) In or about 2004 through 2006, Brooks Sports filed trademark applications for BROOKS alone (not in connection with a symbol or other word) in several countries for bags and clothing in Classes 18 and 25, respectively. Brooks Brothers objected to these filings because, among other reasons, they violated the 1980 Agreement. Brooks Sports later withdrew the registrations in recognition of the parties' 1980 Agreement. *See, e.g.*, Canadian Trademark Application No. 1233948 and Australian Trademark Application No. 1145895.

205. Attached as Exhibit 5 is a 2011 email from Brooks Sports' counsel to Brooks Brothers' counsel acknowledging that several trademark applications filed by Brooks Sports in Panama, Australia, the EU, Canada, Taiwan, Chile, and Singapore violated the 1980 Agreement. The email also summarized Brooks Sports' undertakings to remedy these breaches.

206. The understanding between the companies has been (and continues to be) that Brooks Sports can file trademarks and use BROOKS alone only for athletic shoes, and that in connection with athletic apparel, Brooks Sports must always file and use a symbol (*i.e.*, Path Logo) or a word with BROOKS in accordance with the parameters set forth in the 1980 Agreement.

III. Brooks Sports' Willful Breach of the 1980 Agreement

A. The Trademark Applications

207. In 2018 and 2020, Brooks Sports breached the 1980 Agreement, and the parties' long-standing course of dealing, by filing trademark applications for the word mark BROOKS in connection with athletic clothing and not solely athletic footwear.

208. Specifically, on February 20, 2018, Brooks Sports filed U.S. Trademark Application Serial No. 87804267 (the "267 Application") for the word mark BROOKS in connection with athletic footwear and athletic clothing—namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweat shirts, skirts, leggings, rainwear, and vests in Class 25. *See* Exhibit 6.

1 209. On January 27, 2020, Brooks Sports filed U.S. Trademark Application Serial No.
2 88775125 (the “’125 Application”) for the word mark BROOKS in connection with retail store
3 services featuring clothing and footwear, and online retail store services featuring clothing and
4 footwear. *See* Exhibit 7.

5 210. By filing the ’267 and ’125 Applications, Brooks Sports violated the 1980
6 Agreement and the parties’ course of dealing because, among other reasons, Brooks Sports
7 sought to register the word BROOKS without joining the word with a symbol (such as the “Path
8 Logo”) or another word.

9 211. Despite notices from Brooks Brothers reminding Brooks Sports of its violation of
10 the 1980 Agreement, Brooks Sports has refused to withdraw the aforementioned applications,
11 and Brooks Sports remains in breach of contract.

12 212. Brooks Brothers has unnecessarily been forced to expend money on legal fees to
13 protect the trademark registers in the United States and other countries around the world, so that
14 the filings by Brooks Sports do not block lawful trademark applications of Brooks Brothers on
15 likelihood of confusion grounds or otherwise place a cloud on the title of Brooks Brothers’
16 trademarks or cause marketplace confusion.

17 **B. The Sale of Clothing (the Breaching Goods)**

18 213. In addition to the breaching trademark filings, Brooks Sports has been advertising,
19 distributing, offering for sale, and selling articles of apparel that breach the terms and conditions
20 of the 1980 Agreement (the “Breaching Goods”). Examples of the breaching apparel can be
21 found below:
22
23
24
25
26
27



214. In each instance above, Brooks Sports has used the word BROOKS on apparel, and Brooks Sports has failed to use BROOKS as a composite mark with either another word or symbol (such as the Path Logo device) in close proximity and size, as required under the terms of the 1980 Agreement.

215. Based upon the description of goods within the '267 Application, Brooks Sports is selling or intends to enlarge its offerings to additional clothing articles that are of the same type that have been sold and continue to be sold by Brooks Brothers.

C. Brooks Sports' Lawsuit

216. By filing this lawsuit, Brooks Sports breached the 1980 Agreement.

217. In its Complaint, Brooks Sports asserts, among other things, that Brooks Brothers unlawfully "applied for a new trademark application to use BROOKS alone, without the word BROTHERS," on various categories of goods, including clothing, sporting goods, and accessories for athletics, and retail stores. Brooks Sports seeks to prevent Brooks Brothers from using the word BROOKS in connection with sale of athletic clothing and apparel and certain footwear. *See, e.g.*, Complaint ¶¶ 48-52.

218. But in paragraph 2 of the 1980 Agreement, Brooks Sports expressly agreed that it would not object to Brooks Brothers' use of the mark BROOKS on clothing:

BROOKS SHOE will not object to the use and registration by BROOKS BROTHERS for the entire world of the Trademark or Service Mark BROOKS or BROOKS BROTHERS in connection with services related to the sale of *clothing*, including, without

1 limitation, shoes not classified as athletic shoes, and promotional
2 services relating thereto.

3 Ex. 2 ¶ 2 (emphasis added).

4 219. Under the 1980 Agreement, Brooks Brothers may use the word BROOKS in
5 connection with the sale of clothing, including athletic clothing. Brooks Sports' claims to the
6 contrary in this lawsuit are without merit, and by presenting such claims, Brooks Sports has
7 breached the covenant not to oppose such use or registration.

8 **IV. Brooks Sports' Willful Trademark Infringement**

9 220. In an effort to restore profits, Brooks Sports is trying to broaden its apparel
10 offerings. Brooks Sports has filed trademark applications—and Brooks Sports intends to market
11 and sell clothing articles—that are directly in conflict with the clothing articles sold by Brooks
12 Brothers. This will lead to consumer confusion.

13 221. With knowledge of Brooks Brothers' Trademarks and the parameters for
14 permitted use and registration contained in the 1980 Agreement, Brooks Sports has distributed,
15 offered for sale, and sold the Breaching Goods to consumers in interstate commerce bearing
16 unauthorized uses of the Trademarks.

17 222. The offer for sale and sale of the Breaching Goods is likely to cause confusion, to
18 cause mistake, or to deceive consumers.

19 223. The aforementioned actions of Brooks Sports were willful and intentional.
20 Brooks Sports either knew that the Breaching Goods bore unauthorized uses of the Trademarks
21 or willfully ignored such facts. Brooks Sports' actions were part of a deliberate effort to cause
22 confusion and mistake among the consuming public as to the source, affiliation, or sponsorship
23 of Brooks Sports' products, and to gain for Brooks Sports the benefit of the enormous goodwill
24 associated with Brooks Brothers' Trademarks.

25 224. The unauthorized use of the BROOKS word mark by Brooks Sports, and Brooks
26 Sports' expansion of its use of BROOKS alone into an array of clothing, has caused Brooks
27 Brothers to lose the ability to control its reputation and image among the public.

225. Brooks Sports' actions have diluted, tarnished, and caused injury to Brooks Brothers' Trademarks.

226. Brooks Sports' actions are likely to have caused, and are likely to continue to cause, confusion and deception in the marketplace.

227. Brooks Sports' actions have been likely to cause, and are likely to continue to cause, the public to believe that the Breaching Goods possess the same quality and standards as the products that are distributed or licensed by Brooks Brothers.

228. The aforementioned actions of Brooks Sports in manufacturing, importing, distributing, offering for sale, and/or selling in interstate commerce the Breaching Goods: (a) are likely to cause confusion and mistake among the consuming public that all such goods originate with Brooks Brothers: (b) are likely to cause confusion and mistake among the consuming public that the Breaching Goods are being offered to the consuming public with the sponsorship or approval of Brooks Brothers: and (c) are likely to cause dilution of the distinctive quality of Brooks Brothers' Trademarks.

229. Brooks Sports' conduct has caused irreparable injury and harm to the goodwill and reputation associated with Brooks Brothers and the Trademarks, and will continue to cause irreparable injury and harm, unless and until Brooks Sports is restrained by this Court from violating Brooks Brothers' rights.

230. Brooks Brothers has no adequate remedy at law.

First Counterclaim
(Breach of Contract)

231. Brooks Brothers repeats and incorporates here all of the allegations set forth in the preceding paragraphs of these Counterclaims.

232. Brooks Brothers and Brooks Sports are parties to the 1980 Agreement.

233. The 1980 Agreement is an enforceable and binding contract.

234. Brooks Brothers has satisfied all of its obligations under the 1980 Agreement.

1 235. Brooks Sports has willfully, and in bad faith, breached the 1980 Agreement by,
2 among other things, filing the '267 and '125 Applications, which seek protection for the word
3 mark BROOKS alone in connection with athletic clothing.

4 236. Brooks Sports has willfully, and in bad faith, breached the 1980 Agreement by,
5 among other things, using the word BROOKS alone in connection with the sale of the Breaching
6 Goods.

7 237. Brooks Sports has willfully, and in bad faith, breached the 1980 Agreement by
8 commencing this action against Brooks Brothers. In its Complaint, Brooks Sports seeks to
9 prevent Brooks Brothers from using or registering the word BROOKS in connection with sale of
10 athletic clothing and apparel, but in the 1980 Agreement, Brooks Sports expressly agreed not to
11 object to such use or registration.

12 238. Brooks Sports also has breached its duty of good faith and fair dealing by
13 perpetrating the actions summarized above.

14 239. Brooks Sports' willful, bad-faith breach has caused, and will continue to cause,
15 substantial and irreparable harm to Brooks Brothers for which Brooks Brothers has no adequate
16 remedy at law. Among other things, Brooks Sports' filing and prosecution of the '267 and '125
17 Applications will serve to block lawful trademark applications of Brooks Brothers, which were
18 contemplated by the parties under the 1980 Agreement.

19 240. Brooks Sports' filing and prosecution of the '267 and '125 Applications, and its
20 use of the word BROOKS in violation of the 1980 Agreement, will cause irreparable damage to
21 the Trademarks and to the Brooks Brothers brand and its value, and will create a cloud on Brooks
22 Brothers' right to use the Trademarks.

23 241. Brooks Brothers is entitled to equitable relief and specific performance, including
24 an order from this Court requiring Brooks Sports to withdraw the '267 and '125 Applications,
25 and to cease any and all use of the word BROOKS, without a joining symbol or word, in
26 connection with the sale of any athletic clothing, apparel, or equipment.

242. Brooks Brothers is also entitled to monetary damages, in an amount to be proved at trial, plus attorneys' fees and costs.

Second Counterclaim
(Federal False Designation of Origin and Unfair Competition, 15 U.S.C. § 1125(a))

243. Brooks Brothers repeats and incorporates here all of the allegations set forth in the preceding paragraphs of these Counterclaims.

244. The Trademarks are valid, federally-registered trademarks entitled to protection under the Lanham Act. Many of the Trademarks are incontestable.

245. Under these registrations, Brooks Brothers has the exclusive right to use the Trademarks. Brooks Brothers also has common law rights in the Trademarks.

246. Brooks Brothers has used the inherently distinctive and famous Trademarks continuously in connection with its goods and services, including, but not limited to, sportswear, headwear, and sports shoes.

247. Brooks Brothers has exerted significant effort and expense in the form of advertising, promotion, and sales to promote the Trademarks in the United States and throughout the world as distinctive of Brooks Brothers' goods and services in commerce.

248. As a result of Brooks Brothers' use and promotion of the Trademarks, the Trademarks have developed secondary meaning as an indicator that Brooks Brothers is the source of goods and services identified by the Trademarks.

249. The Trademarks represent valuable goodwill owned by Brooks Brothers.

250. Brooks Sports' ability to register and use the BROOKS word mark was specifically limited to athletic shoes by the 1980 Agreement.

251. Brooks Sports is using the Trademarks—specifically, the BROOKS word mark—without Brooks Brothers' consent. Such use constitutes a false designation of origin, a false or misleading description or representation of goods, tending wrongfully and falsely to describe or represent a connection between Brooks Brothers' goods and Brooks Sports' goods.

1 252. Brooks Sports' use of the Trademarks—namely, BROOKS alone—on a wide
2 variety of clothing articles, including the Breaching Goods, is likely to cause confusion, mistake,
3 or deception as to the source of origin, sponsorship, or approval of its goods and services, in that
4 consumers or others are likely to believe Brooks Sports' goods and services are actually Brooks
5 Brothers' goods and services, or those of a company legitimately connected with, approved by,
6 or related to Brooks Brothers.

7 253. Brooks Sports' use of the Trademarks—namely, BROOKS alone—enables
8 Brooks Sports to represent and deceptively advertise, merchandise, market, display, and promote
9 Brooks Sports' goods and services as emanating from Brooks Brothers or from a company
10 legitimately connected with, approved by, or related to Brooks Brothers.

11 254. Brooks Sports had actual knowledge of Brooks Brothers' ownership and prior use
12 of the Trademarks before Brooks Sports' conduct described herein, and Brooks Sports has acted
13 knowingly, willfully, and maliciously with intent to trade upon the reputation and goodwill of
14 Brooks Brothers and to injure Brooks Brothers.

15 255. Brooks Sports' conduct described herein constitutes unfair competition, false
16 designation of origin of goods and services, and false or misleading description or representation
17 of goods and services under 15 U.S.C. § 1125(a).

18 256. The willful nature of Brooks Sports' conduct described herein renders this an
19 exceptional case within the meaning of 15 U.S.C. § 1117.

20 257. By reason of the foregoing, Brooks Brothers has been injured in an amount not
21 yet ascertained, and is entitled to the remedies provided for in 15 U.S.C. §§ 1116 *et seq.*

22 258. Brooks Sports' conduct described herein has caused, and if not enjoined will
23 continue to cause, irreparable damage to Brooks Brothers' rights in the Trademarks, and to
24 Brooks Brothers' business, reputation, and goodwill, which cannot be adequately compensated
25 solely by monetary damages. Brooks Brothers therefore has no adequate remedy at law and
26 seeks preliminary and permanent injunctive relief pursuant to 15 U.S.C. §§ 1116 *et seq.*
27

Third Counterclaim
(Federal Trademark Infringement, 15 U.S.C. §§ 1114, 1125(a))

259. Brooks Brothers repeats and incorporates here all of the allegations set forth in the preceding paragraphs of these Counterclaims.

260. The Trademarks are valid, federally-registered trademarks entitled to protection under the Lanham Act. Under these registrations, Brooks Brothers has the exclusive right to use the Trademarks. Brooks Brothers also has common law rights in the Trademarks.

261. Brooks Brothers has used the inherently distinctive and famous Trademarks continuously in connection with its goods and services, including, but not limited to, sportswear, headwear, and sports shoes.

262. Brooks Brothers has exerted significant effort and expense in the form of advertising, promotion, and sales to promote the Trademarks in the United States and throughout the world as distinctive of Brooks Brothers' goods and services in commerce.

263. As a result of Brooks Brothers' use and promotion of the Trademarks, the Trademarks have developed secondary meaning as an indicator that Brooks Brothers is the source of goods and services identified by the Trademarks.

264. The Trademarks represent valuable goodwill owned by Brooks Brothers.

265. Brooks Sports had actual knowledge of Brooks Brothers' ownership and prior use of the Trademarks before its filing and use of the Trademarks alleged herein, and has acted knowingly, willfully, and maliciously with intent to trade upon the reputation and goodwill of Brooks Brothers by causing confusion and mistake among consumers, and by deceiving them.

266. Brooks Sports has willfully, deliberately, and in conscious disregard of Brooks Brothers' rights used the Trademarks in interstate commerce in connection with the sale, offering for sale, distribution, and advertising of goods or services, including the Breaching Goods.

267. Brooks Sports' use of the Trademarks beyond the parameters and license of the 1980 Agreement is likely to cause confusion, mistake, or deception as to the source of origin, sponsorship, or approval of its goods and services, in that consumers or others are likely to

1 believe Brooks Sports' Breaching Goods are Brooks Brothers' goods and services or those of a
2 company legitimately connected with, approved by, or related to Brooks Brothers.

3 268. Brooks Sports' use of the Trademarks enables Brooks Sports to represent and
4 deceptively advertise, merchandise, market, display, and promote Brooks Sports' Breaching
5 Goods as emanating from Brooks Brothers or from a concern legitimately connected with,
6 approved by, or related to Brooks Brothers, and to substitute or pass off Brooks Sports' goods
7 and services as those of Brooks Brothers.

8 269. Brooks Sports' knowing and willful use has reproduced, copied, colorably
9 imitated, and infringed the Trademarks in interstate commerce in violation of 15 U.S.C. § 1114.

10 270. The willful nature of Brooks Sports' conduct described herein renders this an
11 exceptional case within the meaning of 15 U.S.C. § 1117.

12 271. By reason of the foregoing, Brooks Brothers has been injured in an amount not
13 yet ascertained, and is entitled to the remedies provided for in 15 U.S.C. §§ 1116 *et seq.*

14 272. Brooks Sports' conduct described herein has caused, and if not enjoined will
15 continue to cause, irreparable damage to Brooks Brothers' rights in the Trademarks and to Brooks
16 Brothers' business, reputation, and goodwill, which cannot be adequately compensated solely by
17 monetary damages.

18 273. Brooks Brothers therefore has no adequate remedy at law and seeks preliminary
19 and permanent injunctive relief pursuant to 15 U.S.C. §§ 1116 *et seq.*

20 **Fourth Counterclaim**
21 **(Federal Trademark Dilution, 15 U.S.C. § 1125(c))**

22 274. Brooks Brothers repeats and incorporates here all of the allegations set forth in
23 the preceding paragraphs of these Counterclaims.

24 275. The Trademarks are famous and distinctive, and became famous and distinctive,
25 before Brooks Sports' conduct alleged herein.

26 276. The Trademarks are recognized by the consuming public of the United States as
27 a designation of source for Brooks Brothers' goods and services, and are therefore famous marks.

277. Brooks Sports' conduct alleged herein constitutes trademark uses in commerce that are likely to dilute the distinctive quality of the Trademarks, by both blurring and tarnishment, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

278. Upon information and belief, Brooks Sports has engaged in such conduct willfully, deliberately, and in conscious disregard of Brooks Brothers' rights, making this an exceptional case within the meaning of 15 U.S.C. § 1117.

279. By reason of the foregoing, Brooks Brothers has been injured in an amount not yet ascertained, and is entitled to the remedies provided for in 15 U.S.C. §§ 1116, *et seq.*

280. Brooks Sports' conduct described herein has caused, and if not enjoined will continue to cause, irreparable damage to Brooks Brothers' rights in the Trademarks, and to Brooks Brothers' business, reputation, and goodwill, which cannot be adequately compensated solely by monetary damages.

281. Brooks Brothers therefore has no adequate remedy at law and seeks preliminary and permanent injunctive relief pursuant to 15 U.S.C. §§ 1116 *et seq.*

Fifth Counterclaim
(Common Law Trademark Infringement)

282. Brooks Brothers repeats and incorporates here all of the allegations set forth in the preceding paragraphs of these Counterclaims.

283. The general consuming public recognizes the Trademarks as designating Brooks Brothers as a source of goods and services. Brooks Brothers has common law rights in the Trademarks.

284. Brooks Sports has knowingly and willfully used the Trademarks in Washington in connection with the sale, offer for sale, distribution, and advertising of the Breaching Goods and related services.

285. Brooks Sports willfully, deliberately, and in conscious disregard of Brooks Brothers' rights used the Trademarks in connection with the sale, offer for sale, distribution, and advertising of the Breaching Goods and related services.

288. Brooks Sports' conduct described herein has caused, and if not enjoined will continue to cause, irreparable damage to Brooks Brothers rights in the Trademarks and Brooks Brothers' business, reputation, and goodwill, which cannot be adequately compensated solely by monetary damages. Brooks Brothers therefore has no adequate remedy at law and seeks preliminary and permanent injunctive relief.

289. Brooks Brothers repeats and incorporates here all of the allegations set forth in the preceding paragraphs of these Counterclaims.

291. Brooks Sports' unfair and deceptive practices have negatively affected and injured the public interest.

292. The aforementioned acts of Brooks Sports' constitutes unfair competition in violation of Washington's Consumer Protection Act, RCW 19.86.020.

293. Brooks Sports' conduct threatens to cause, and is causing, immediate and irreparable harm and injury to Brooks Brothers, and to its goodwill and reputation, and will and continue to both damage Brooks Brothers and confuse the public unless enjoined by this court. Brooks Brothers has no adequate remedy at law.

294. Brooks Brothers is entitled to, among other relief, injunctive relief and an award of actual damages, Brooks Sports' profits, enhanced damages and profits, reasonable attorneys'

fees, and costs of the action, and an increased award of up to three times its actual damages under RCW 19.86.090, together with prejudgment and post-judgment interest.

Seventh Counterclaim
(Trademark Dilution RCW § 19.77.160)

295. Brooks Brothers repeats and incorporates here all of the allegations set forth in the preceding paragraphs of these Counterclaims.

296. Brooks Brothers owns common law rights in the Trademarks and has priority in BROOKS and BROOKS-formative marks dating back almost 200 years, and all such rights owned by Brooks are superior to any rights that Brooks Sports may claim or that is permitted under the 1980 Agreement.

297. As a result of 200 years of use and enviable commercial success and notoriety, Brooks Brothers and its Trademarks were famous and distinctive in the State of Washington prior to any date that may lawfully be claimed by Brooks Sports for any goods or services similar to those offered by Brooks Sports under its marks.

298. Brooks Sports' acts as alleged herein are intentional and willful in violation of RCW § 19.77.160 and have caused, and will continue to cause, irreparable damage to Brooks Brothers unless enjoined, and Brooks Brothers has no adequate remedy at law.

299. Brooks Brothers is entitled to injunctive relief pursuant to RCW § 19.77.160.

DEMAND FOR JURY TRIAL

300. Brooks Brothers requests a trial by jury on all issues so triable.

WHEREFORE, Brooks Brothers seeks judgment as follows:

(1) an order declaring Brooks Sports in breach of the 1980 Agreement;

(2) an order requiring Brooks Sports to withdraw the '267 and '125 Applications and to cease any and all use of the word BROOKS, without a joining symbol or word as required by the specific parameters of the 1980 Agreement, in connection with the sale of any athletic clothing, apparel, or equipment;

(3) an order enjoining Brooks Sports from prosecuting the '267 and '125 Applications and from using the word BROOKS, without a joining symbol or word as required by the specific parameters of the 1980 Agreement, in connection with the sale of any athletic clothing, apparel, or equipment;

(4) an order requiring Brooks Sports to withdraw any other applications or registrations consisting of the mark BROOKS, without a joining symbol or word as required by the specific parameters of the 1980 Agreement, in connection with clothing, apparel, or equipment and services related thereto;

(5) an order enjoining Brooks Sports from using the word BROOKS, without a joining symbol or word as required by the specific parameters of the 1980 Agreement, in connection with clothing, apparel, or equipment and services related thereto;

(6) an order declaring that that the Trademarks are valid and willfully infringed by Brooks Sports violation of 15 U.S.C. § 1114, et seq.;

(7) an order declaring that Brooks Sports has violated Section 32 of the Lanham Act (15 U.S.C. § 1114), Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)), and Section 43(c) of the Lanham Act (15 U.S.C. § 1125(c)),

(8) an order declaring that Brooks Sports has violated RCW § 19.86.020, RCW § 19.77.160, and RCW § 19.77.900

(9) an order declaring that Brooks Sports infringed Brooks Brothers' common law Trademarks and unfairly competed with Brooks Brothers at common law.

(10) an order preliminarily and permanently enjoining and restraining Brooks Sports, its subsidiaries, affiliates, divisions, officers, directors, principals, servants, employees, successors and assigns, and all those in active concert or participation with them, from:

- a. imitating, copying or making unauthorized use of the Trademarks;
- b. manufacturing, importing, exporting, distributing, circulating, selling, offering for sale, advertising, promoting or displaying any product bearing any unauthorized reproductions, copies or colorable imitations of the Trademarks;

ANSWER, DEFENSES, AND COUNTERCLAIMS
CASE NO. 2:20-CV-00207-TSZ - 35

133100.0001/7985435.2

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4200
P.O. BOX 91302
SEATTLE, WA 98111-9402
206.223.7000 FAX: 206.223.7107

c. using any unauthorized colorable imitation of the Trademarks in connection with the manufacture, promotion, advertisement, display, sale, offering for sale, production, import, export, circulation or distribution of any product in such manner as to relate or connect, or tend to relate or connect, such product in any way with Brooks Brothers or to any goods sold, sponsored, approved by, or connected with Brooks Brothers;

d. using any unauthorized colorable imitation of the Trademarks in connection with the manufacture, promotion, advertisement, display, sale, offering for sale, production, import, export, circulation or distribution of any product which dilutes or is likely to dilute the distinctive quality of the Trademarks;

e. engaging in any other activity constituting unfair competition with Brooks Brothers, or constituting an infringement of the Trademarks or of Brooks Brothers' rights in, or to its right to use or exploit such trademarks, or constituting dilution of the Trademarks and the reputation and the goodwill associated with the Trademarks;

f. making any statement or representation whatsoever, with respect to the infringing goods in issue, that falsely designates the origin of the goods as those of Brooks Brothers, or that is false or misleading with respect to Brooks Brothers; and

g. engaging in any other activity, including the effectuation of assignments or transfers of its interests in unauthorized colorable imitations of the Trademarks or the, the formation of other corporations, partnerships, associations or other entities or the utilization of any other devices, for the purpose of circumventing, evading, avoiding or otherwise violating the prohibitions set forth in subsections 1(a) through 1(f) above; and

(11) an order requiring Brooks Sports to recall and destroy all Breaching Goods or any other goods that violate the 1980 Agreement or Brooks Brothers' Trademarks.

(12) an order and judgment awarding Brooks Brothers monetary damages, including but not limited to, actual and compensatory damages;

(13) an order and judgment awarding Brooks Brothers punitive and exemplary damages as the Court finds appropriate to deter any future willful infringement and breach by Brooks Sports;

(14) an order declaring that this is an exceptional case under Section 35(a) of the Lanham Act and awarding Brooks Brothers its costs and reasonable attorneys' fees thereunder (15 U.S.C. § 1117(a));

(15) an order and judgment awarding Brooks Brothers its actual damages sustained, its costs and expenses, including reasonable attorneys' fees and treble damages, under RCW 19.86.090.

(16) an order and judgment awarding Brooks Brothers interest, including prejudgment and post-judgment interest, in the foregoing sums; and

(17) any other relief that this Court deems just and proper.

DATED: March 4, 2020

LANE POWELL PC




By /s/Tiffany Scott Connors
Tiffany Scott Connors, WSBA No. 41740
connorst@lanepowell.com
Telephone: 206.223.7000
Facsimile: 206.223.7107



and

Neil B. Friedman (*Pro Hac Vice Pending*)
Robert J. Fluskey, Jr. (*Pro Hac Vice Pending*)
HODGSON RUSS LLP
Telephone: (716) 848-1688
rfluskey@hodgsonruss.com

*Attorneys for Brooks Brothers Group, Inc., a
Delaware Corporation*

Exhibit C

Trademark	Category	Date	Registration No.
BROOKS	Athletic shoes.	Registered in the United States since July 1981.	1161034
BROOKS and Heritage Design 	Athletic clothing, namely, shirts, pants, jackets, hats, caps, shirts, tights, and hosiery and athletic footwear.	Registered in the United States since April 1992.	1683840
BROOKS and Path Design 	Footwear, shoes, athletic clothing, namely, gloves, mittens, hats, headbands, jackets, jogging suits, pants, shirts, shorts, socks, t-shirts, tank tops, tights, track suits, visors, warm up suits, waterproof jackets and pants, wind resistant jackets.	Registered in the United States since November 2014.	4631302
BROOKS Below Chevron Oval Design 	Clothing, namely, shoes, socks, footwear.	Registered in the United States since December 2001.	2521124

Trademark	Category	Date	Registration No.
BROOKS on Path (Integrated Logo) 	Footwear.	Registered in the United States since October 2018.	5596496
BROOKS on Path (Straight Edge Integrated Logo) 	Athletic Footwear.	Registered in the United States since March 2020.	6008480
BROOKS TRANSCEND	Footwear.	Registered in the United States since April 2015.	4728097

Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office

Reg. No. 1,161,034

Registered Jul. 14, 1981

TRADEMARK
Principal Register

BROOKS

Brooks Shoe Manufacturing Company, Inc.
(Pennsylvania corporation)
131 Factory St.
Hanover, Pa. 17331

For: ATHLETIC SHOES, in CLASS 25 (U.S. Cl. 39).

First use 1914; in commerce 1914.

Ser. No. 125,926, filed May 9, 1977.

ROBERT PEVERADA, Primary Examiner

Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office **Reg. No. 1,683,840**
Registered Apr. 21, 1992

**TRADEMARK
PRINCIPAL REGISTER**

The logo for Brooks, featuring a stylized 'B' with a swoosh and the word 'BROOKS' in a bold, serif font.

WOLVERINE WORLD WIDE, INC. (DELA-
WARE CORPORATION)
9341 COURTLAND DRIVE, N.E.
ROCKFORD, MI 49351

FOR: ATHLETIC CLOTHING; NAMELY,
SHIRTS, PANTS, JACKETS, HATS, CAPS,
SHORTS, TIGHTS AND HOSIERY, AND ATH-
LETIC FOOTWEAR, IN CLASS 25 (U.S. CL. 39).

FIRST USE 11-17-1987; IN COMMERCE
11-17-1987.

OWNER OF U.S. REG. NOS. 1,161,034, 1,319,454
AND OTHERS.

SER. NO. 74-046,570, FILED 4-6-1990.

ANDREW D. LAWRENCE, EXAMINING AT-
TORNEY

United States of America

United States Patent and Trademark Office



Reg. No. 4,631,302

Registered Nov. 04, 2014

Amended Mar. 10, 2020

Int. Cl.: 25

Trademark

Principal Register

Brooks Sports, Inc. (WASHINGTON CORPORATION)
5th Floor
3400 Stone Way North
Seattle, WASHINGTON 98103

CLASS 25: Footwear; shoes; athletic clothing, namely, gloves, mittens, hats, headbands, jackets, jogging suits, pants, shirts, shorts, socks, t-shirts, tank tops, tights, track suits, visors, warm up suits, waterproof jackets and pants, wind resistant jackets

FIRST USE 6-30-2011; IN COMMERCE 6-30-2011

The mark consists of the word "BROOKS" following the stylization of a chevron design.

OWNER OF U.S. REG. NO. 2521124, 1683840, 1161034

SER. NO. 86-160,256, FILED 01-08-2014



Andrei Iancu

Director of the United States
Patent and Trademark Office



Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,521,124

Registered Dec. 18, 2001

**TRADEMARK
PRINCIPAL REGISTER**



BROOKS SPORTS, INC. (WASHINGTON CORPORATION)
19820 NORTH CREEK PARKWAY
SUITE 200
BOTHELL, WA 98011

WATERPROOF VESTS, SWEATERS, TRACK SUITS, TANK TOPS, TURTLE NECKS, TROUSERS, JERSEYS, VISORS, AND WRIST BANDS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-0-2000; IN COMMERCE 2-0-2000.

FOR: CLOTHING, NAMELY SHOES, BOOTS, SLIPPERS, SOCKS, FOOTWEAR, SHIRTS, PANTS, JACKETS, HATS, CAPS, SHORTS, TIGHTS, HOSIERY, JOGGING SUITS, GLOVES, SWEAT PANTS, SWEAT SUITS, SWEAT SHIRTS, WARM UP SUITS, HEADWEAR, HEAD BANDS, T-SHIRTS, SKIRTS, LEGGINGS, UNITARDS, WIND RESISTANT JACKETS, BELTS, RAINWEAR, INSOLES, VESTS, WATERPROOF JACKETS, WATERPROOF PANTS,

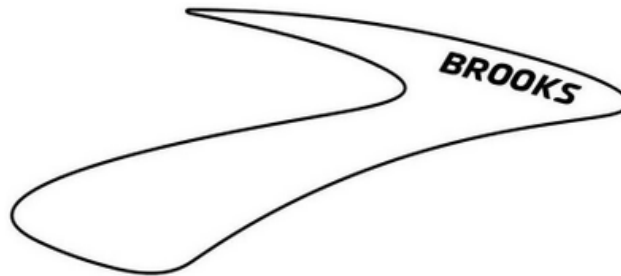
THE MARK CONSISTS OF THE WORD "BROOKS" AND A CHEVRON DESIGN WITHIN AN OVAL.

SN 75-932,902, FILED 3-2-2000.

RUDY R. SINGLETON, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office



Reg. No. 5,596,496

Registered Oct. 30, 2018

Int. Cl.: 25

Trademark

Principal Register

Brooks Sports, Inc. (WASHINGTON CORPORATION)
3400 Stone Way North, 5th Floor
Seattle, WASHINGTON 98103

CLASS 25: footwear

FIRST USE 6-1-2018; IN COMMERCE 6-1-2018

The mark consists of a Chevron design with the word "BROOKS" superimposed thereon.

SER. NO. 87-354,999, FILED 03-01-2017

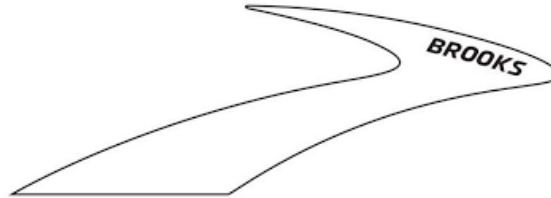


Andrei Iancu

Director of the United States
Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 6,008,480

Registered Mar. 10, 2020

Int. Cl.: 25

Trademark

Principal Register

Brooks Sports, Inc. (WASHINGTON CORPORATION)
5th Floor
3400 Stone Way North
Seattle, WASHINGTON 98103

CLASS 25: Athletic footwear

FIRST USE 3-7-2018; IN COMMERCE 3-7-2018

The mark consists of a chevron design with the word "BROOKS" superimposed thereon.

SER. NO. 87-812,939, FILED 02-27-2018



Andrei Iancu

Director of the United States
Patent and Trademark Office



United States of America

United States Patent and Trademark Office

BROOKS TRANSCEND

Reg. No. 4,728,097

Registered Apr. 28, 2015

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

BROOKS SPORTS, INC. (WASHINGTON CORPORATION)
3400 STONE WAY N
SEATTLE, WA 98103

FOR: FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 2-1-2014; IN COMMERCE 2-1-2014.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,683,840 AND 2,521,124.

SN 85-825,167, FILED 1-16-2013.

ROBERT STRUCK, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

Exhibit D

Trademark	Country	Category	Date
BROOKS	Australia	Footwear.	September 1988
BROOKS	Australia	Athletic footwear; athletic clothing, namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweat shirts, skirts, leggings, rainwear, vests.	March 2018
BROOKS	Austria	Articles of clothing, especially athletics, sports and leisure clothing including boots, shoes and slippers.	December 1979
BROOKS	Bahrain	Athletic footwear; athletic clothing, namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweat shirts, skirts, leggings, rainwear, vests.	October 2018
BROOKS	Benelux	Sporting articles that is not included in other classes.	June 1983
BROOKS	Benelux	Valises and carrier bags, including carrier bags for sporting articles. Footwear, including sports footwear; garments for sports use.	August 1979
BROOKS	Brazil	Athletic footwear; athletic clothing.	October 2020
BROOKS	Canada	Athletic footwear, namely boots, shoe laces and insoles.	May 1985
BROOKS	Chile	Footwear.	May 2003
BROOKS	China	Athletic footwear.	September 1986
BROOKS	China	Athletic footwear; athletic clothing, namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweat shirts, skirts, leggings, rainwear, vests.	March 2018
BROOKS	Costa Rica	Athletic footwear.	May 2014
BROOKS	Croatia	Athletic footwear.	September 2012
BROOKS	Dominican Republic	Footwear of all kinds.	February 1983
BROOKS	Dominican Republic	Sporting goods.	February 1983
BROOKS	European Union	Athletically-related footwear.	January 1999
BROOKS	Finland	Athletic footwear.	February 1985
BROOKS	France	Clothing including boots, shoes and slippers, in particular for use in recreation and sports.	September 1989
BROOKS	Germany	Sports shoes.	May 1980
BROOKS	Guatemala	Footwear.	July 2015
BROOKS	Hong Kong	Athletic shoes.	April 2015
BROOKS	Iceland	Athletic shoes.	January 2014
BROOKS	India	Athletic footwear.	September 2016

Trademark	Country	Category	Date
BROOKS	Indonesia	Sport shoes.	May 2013
BROOKS	Indonesia	Athletic footwear; athletic clothing, namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweat shirts, skirts, leggings, rainwear, vests.	March 2018
BROOKS	WIPO	Athletic shoes.	January 2014
BROOKS	WIPO	Athletic footwear; athletic clothing, namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweat shirts, skirts, leggings, rainwear, vests.	March 2018
BROOKS	Ireland	Athletic footwear.	February 1984
BROOKS	Israel	Athletic shoes.	February 1992
BROOKS	Italy	Clothing, footwear, headgear.	March 1987
BROOKS	Italy	Bags including sporting bags.	June 2012
BROOKS	Japan	Bags/pouches and the like, vanity cases (not fitted). Garters, stocking suspenders, braces, waistbands, belts.	December 1981
BROOKS	Japan	Footwear.	June 1981
BROOKS	Japan	Special sports clothing, special sports shoes. Sports goods; fishing tackle.	July 1988
BROOKS	Japan	Athletic shoes, special athletic shoes excluding golf shoes	July 1999
BROOKS	Jordan	Footwear, namely, sneakers; athletic footwear; special sport shoes.	September 2014
BROOKS	Malaysia	Footwear.	May 1985
BROOKS	Mexico	Clothing, footwear, headgear.	March 1992
BROOKS	Morocco	Leather and imitations of leather, and goods made of these materials not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas and parasols; walking sticks; whips; harness and saddlery. Clothing, footwear, headgear.	December 2011
BROOKS	New Zealand	Athletic shoes and clothing, excluding items specifically designed for golfing.	March 1997
BROOKS	New Zealand	Bags in this class including athletic bags and game bags; trunks and traveling bags; parts and fittings in this class for the afore said goods.	October 1996
BROOKS	Norway	Athletic footwear.	November 1982
BROOKS	Panama	Footwear.	June 2010
BROOKS	Paraguay	All goods included in Class 25.	December 2014
BROOKS	Philippines	Athletic shoes.	February 2015

Trademark	Country	Category	Date
BROOKS	Korea	Vinyl shoes, baseball shoes, basketball shoes, rugby shoes, football shoes, hand ball shoes, track-racing shoes, hockey shoes, golf shoes, hiking shoes, low shoes, boots, laced boots, leather shoes, rain shoes, arctic shoes, boxing shoes, work shoes, and over shoes.	July 1981
BROOKS	Russia	Clothing.	July 1988
BROOKS	Saudi Arabia	Clothing, footwear, headgear.	May 2019
BROOKS	Singapore	Footwear.	February 1992
BROOKS	South Africa	Articles of clothing including articles of clothing for use in athletics, sports, jogging and leisure wear; boots, shoes and slippers.	February 1983
BROOKS	Switzerland	Clothing, including boots, shoes and slippers for sports and leisure.	February 1980
BROOKS	Taiwan	Clothing, footwear, headwear, scarves, head scarves, neckties, bow ties, diapers, bibs, hats and caps, cold resistant ear muffs, socks, dress gloves and cold resistant gloves, belts, leggings, aprons, shoe nails.	November 2004
BROOKS	Tangiers	Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery. Clothing, footwear, headgear.	June 1992
BROOKS	Thailand	Underwear, pants including sports pants, shoes.	July 2011
BROOKS	Ukraine	Clothing.	June 1993
BROOKS	United Arab Emirates	Athletically related footwear, excluding those items used exclusively for golf.	May 1996
BROOKS	United Kingdom	Shoes for athletics.	August 1993
BROOKS	United Kingdom	Athletically-related footwear.	January 1999
BROOKS	United Kingdom	Athletic footwear; athletic clothing, namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweat shirts, skirts, leggings, rainwear, vests.	March 2018
BROOKS	Uruguay	Footwear of all class and nature.	November 1991
BROOKS	Uruguay	Footwear and clothing.	June 1992
BROOKS	Venezuela	Clothing, footwear, headgear.	January 1987

Exhibit E

AGREEMENT

THIS AGREEMENT, now made by and between GARFINCKEL, BROOKS BROTHERS, MILLER & RHOADES, INC., a Virginia corporation, having a place of business at 346 Madison Avenue, New York, New York 10017 (hereinafter referred to as BROOKS BROTHERS) and BROOKS SHOE MANUFACTURING CO., INC., a Pennsylvania corporation, having a place of business at 131 Factory Street, Hanover, Pennsylvania 17331 (hereinafter referred to as BROOKS SHOE);

WHEREAS, BROOKS BROTHERS and its predecessors have been using the Trademarks BROOKS BROTHERS and BROOKS for many years in connection with various articles of clothing, as set forth in United States Patent and Trademark Office Trademark Certificates of Registration No. 103,889, No. 404,625, No. 404,683, No. 404,790, No. 404,792, No. 405,037, No. 405,282, No. 640,370, No. 667,458 and No. 867,673;

WHEREAS, BROOKS SHOE and its predecessors have been using the Trademark BROOKS and BROOKS SHOE for many years in connection with athletic shoes, the use of the Trademark BROOKS being set forth in pending United States Patent and Trademark Office Trademark Application Serial No. 125,926;

WHEREAS, BROOKS BROTHERS has instituted Trademark Opposition No. 60,319 against the aforesaid United States Patent and Trademark Office Trademark Application Serial No. 125,926 of BROOKS SHOE;

WHEREAS, it is the desire of both parties amicably to settle said Trademark Opposition No. 60,319, as well as avoiding future conflicts for the entire world.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and because it is the intention of the parties hereto to be legally bound, it is agreed as follows, for the entire world:

(1) BROOKS BROTHERS will not object to the use and registration by BROOKS SHOE for the entire world of the Trademark or Service Mark BROOKS or BROOKS SHOES in connection with any type of athletic shoes or in connection with services relating to the holding of athletic contests or any other athletically related promotional services relating thereto.

(2) BROOKS SHOE will not object to the use and registration by BROOKS BROTHERS for the entire world of the Trademark or Service Mark BROOKS or BROOKS BROTHERS in connection with services relating to the sale of clothing, including, without limitation, shoes not classified as athletic shoes, and promotional services relating thereto.

(3) BROOKS BROTHERS will not object to the use and registration by BROOKS SHOE for the entire world of a composite Trademark or Service Mark comprising the word BROOKS and a second word (not similar to the word BROTHERS or any other word currently being used by BROOKS BROTHERS in association with the word BROOKS) or a symbol, such as, but not limited to, the "V" now appearing on athletic shoes being made and sold by BROOKS SHOE or the "CHEVRON" Design used by BROOKS SHOE on its letterhead in connection with athletically related clothing, equipment and products for use in various active sports such as, by way of example and not by way of limitation, walking, running, track & field, basketball, football, baseball, wrestling, tennis, soccer, racquetball, squash, swimming and other active sports, but not including golf. However, BROOKS SHOE agrees not to use any symbol similar to the "GOLDEN FLEECE" Design currently being used by BROOKS BROTHERS. With reference to golf related clothing, BROOKS SHOE shall have the right to use "BROOKS SHOE MANUFACTURING CO., INC." as the commercial corporate identity on any packaging. Such use shall be in a type style no larger than 1/4" (one-quarter inch) high, in a relatively inconspicuous place, near the edge of the packaging.

(4) In connection with paragraph (3), the use by BROOKS SHOE of the second word or symbol together with the word BROOKS shall be under such conditions that the word BROOKS will be fairly and closely associated with the second word or symbol and that the size of the letters in the word BROOKS shall be of a height not greater than twice the height of the second word or of the symbol. Where BROOKS SHOE uses a symbol together with the word BROOKS, such symbol shall be of a height at least equal to the height of the letters of the word BROOKS. The word BROOKS and the second word or symbol may be of the same or different colors and of the same and different logo or script, excluding script similar to the script currently being used by BROOKS BROTHERS.

(5) In the event BROOKS SHOE should cause to be published an advertisement for athletically related clothing, as further defined in paragraph (3) of the Agreement,, and in the further event that such advertisement also includes golf clothing, BROOKS SHOE shall take care that a trademark in compliance with this Agreement shall be fairly associated with the golf clothing.

(6) While the parties recognize that BROOKS SHOE can exercise no control over its customers' advertising, BROOKS SHOE agrees that it will not suggest to its customers that clothing bearing the Trademark BROOKS used in accordance with paragraphs (3) and (4) hereinabove, is capable of golf use nor will it make any representation to its customers that such customers have the right to suggest such use.

(7) In order to carry out this Agreement, the parties shall execute a Stipulation of Dismissal in the form attached hereto as Exhibit A, dismissing Opposition No. 60,319. The Stipulation of Dismissal shall be executed and filed with the Patent and Trademark Office within thirty (30) days of the last signature of this Agreement.

(8) Subject to the rights and limitations as set forth in paragraphs (1) to (6) hereinabove, each party undertakes to the other party that:

- (a) It will not oppose or in any way contest the validity of the registration of the Trademarks or Service Marks of the other party.
- (b) It will, when reasonably requested to do so, and within thirty (30) days of request, furnish written consent to registration of the Trademarks and Service Marks to the other party.

(9) Each party hereto releases the other party, its successors and assigns from all claims arising from the prior use by the respective parties of the Trademarks or Service Marks set forth herein. However, nothing contained in this paragraph shall be deemed to affect the obligations arising under this Agreement.

(10) This Agreement shall be of indefinite duration so long as a party has not abandoned all of its Trademarks or Service Marks covered in this Agreement. In the event that one party abandons all of its Trademarks or Service Marks as set forth herein in a particular country, then the other party shall have the right to use and register its Trademarks or Service Marks in that country and shall not be obligated in the future to issue a license to the party that has abandoned such Trademarks or Service Marks.

(11) Each party will be responsible for its own costs incurred by the implementation of any part of this Agreement.

(12) This Agreement shall be binding upon the successors and assigns of the respective parties. This Agreement may be assigned together with substantially all of the assets of a

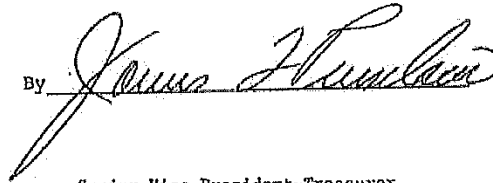
particular party relating to the subject matter of this Agreement,
but shall not otherwise be assignable without the written consent
of the other party having first been obtained.

IN WITNESS WHEREOF, the parties have hereunto set their
hands and seals on the dates hereinbelow indicated.

GARFINCKEL, BROOKS BROTHERS, MILLER &
RHODES, INC.

January 16, 1980¹

By



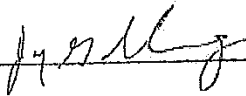
(CORPORATE SEAL)

Senior Vice President-Treasurer
TITLE

BROOKS SHOE MANUFACTURING CO., INC.

December 15, 1980

By



(CORPORATE SEAL)

President

TITLE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GARFINCKEL, BROOKS BROTHERS,
MILLER & RHOADES, INC.,

Opposer,

vs.

BROOKS SHOE MANUFACTURING CO.,
INC.,

Applicant.

OPPOSITION NO. 60,319

STIPULATION OF DISMISSAL

Hon. Commissioner of Patents and Trademarks
Washington, D. C. 20231

Sir:

It is hereby stipulated by and between counsel for the
parties hereto that the above-entitled Opposition is dismissed
with prejudice.

AMSTER, ROTHSTEIN & ENGELBERG

_____, 1980

By

Anthony F. Locicero
90 Park Avenue
New York, New York 10016
(212) 697-5995
Attorneys for Opposer.

CAESAR, RIVISE, BERNSTEIN & COHEN, LTD.

_____, 1980

By

Alan H. Bernstein
Suite 800 - Stephen Girard Bldg.
21 South 12th Street
Philadelphia, Pennsylvania 19107
(215) 567-2010
Attorneys for Applicant.

Exhibit F

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>ESTTA Tracking number: **ESTTA926159**Filing date: **10/03/2018**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	BROOKS BROTHERS GROUP, INC.
Granted to Date of previous extension	10/03/2018
Address	100 Phoenix Avenue ENFIELD, CT 06082 UNITED STATES
Correspondence information	Lisa W. Rosaya; Joshua S. Wolkoff Baker & McKenzie LLP 452 Fifth Avenue New York, NY 10018 UNITED STATES nyctrademarks@bakermckenzie.com, Lisa.rosaya@bakermckenzie.com, Joshua.Wolkoff@bakermckenzie.com 212 626 4100

Applicant Information

Application No	87804267	Publication date	06/05/2018
Opposition Filing Date	10/03/2018	Opposition Period Ends	10/03/2018
Applicant	Brooks Sports, Inc. 5th Floor 3400 Stone Way North Seattle, WA 98103 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Athletic footwear; athletic clothing, namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweat shirts, skirts, leggings, rainwear, vests

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration	667458	Application Date	04/30/1957
-------------------	--------	------------------	------------

No.			
Registration Date	09/23/1958	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class U039 (International Class 010, 025, 026). First use: First Use: 1856/00/00 First Use In Commerce: 1856/00/00</p> <p>MEN'S AND BOYS' CLOTHING-NAMELY, SUITS,COATS INCLUDING TOP-COATS, OVERCOATS, AND RAINCOATS, SPORT COATS, JACKETS, PARKAS, SWEATERS, VESTS, TROUSERS, [KILTS,]WALKING SHORTS, OUTER SHIRTS INCLUDING EVENING, DRESS, POLO, AND SPORTS SHIRTS,COLLARS, PAJAMAS, ROBES, SMOKING JACKETS, DRESSING GOWNS, UNDERWEAR, MUFFLERS, GLOVES, NECKTIES, HANDKERCHIEFS, HOSE, CAPS, HATS, BELTS, SUSPENDERS, GARTERS, BOOTS, SLIPPERS, SHOES, OVERSHOES, BEACH WEAR, SWIMWEAR, FORMAL WEAR AND MILITARYUNIFORMS; AND WOMEN'S CLOTHING-NAMELY, OUTER SHIRTS, WALKING SHORTS, SWEATERS, RAINCOATS, AND OUTER COATS</p>		


U.S. Registration No.	2716108	Application Date	04/12/2000
Registration Date	05/13/2003	Foreign Priority Date	NONE
Word Mark	346 BROOKS BROTHERS		
Design Mark	<p style="text-align: center;">BROOKS BROTHERS 346</p>		
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 2001/02/28 First Use In Commerce: 2001/02/28</p> <p>Clothing, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps, shoes, shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves,rainwear, trousers, [ascots, ties,] [outer shirts, including evening, dress,polo, and sports shirts, collars,] pajamas, [smoking jackets,] [dressing gowns, mufflers,] gloves, [hose,] belts, suspenders, [garters,] boots, slippers, [overshoes,] beachwear, swimwear [, and formal wear, namely, jackets, pants, suits, shirts, shoes, cummerbunds, ties, suspenders and gowns]</p>		

U.S. Registration No.	4012556	Application Date	01/27/2011
Registration Date	08/16/2011	Foreign Priority Date	NONE
Word Mark	BLACK FLEECE BY BROOKS BROTHERS		

Design Mark	BLACK FLEECE BY BROOKS BROTHERS
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2009/09/01 First Use In Commerce: 2009/09/01 Fragrances

U.S. Registration No.	4359876	Application Date	12/13/2011
Registration Date	07/02/2013	Foreign Priority Date	NONE
Word Mark	BLACK FLEECE BY BROOKS BROTHERS		
Design Mark	BLACK FLEECE BY BROOKS BROTHERS		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/08/00 First Use In Commerce: 2007/08/00 Belts; Blouses; Boots; Bottoms; Coats; Dresses; Evening dresses; Gloves; Hats; Hosiery; Jackets; Mufflers; Neckties; Pants; Rainwear; Scarves; Shirts; Shoes; Shorts; Skirts; Socks; Suits; Suspenders; Sweaters; Ties; Tops; Trousers, none of the foregoing include goods made from black fleece fabric		


U.S. Registration No.	2765572	Application Date	01/10/2001
Registration Date	09/16/2003	Foreign Priority Date	NONE
Word Mark	BROOKS BOYS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 Clothing, namely, shirts, tops, sweaters, jackets, pants, suits, [bottoms,] socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, [robes, ho- sieri, skirts, dresses, loungewear,] scarves, rainwear, trousers, ascots, ties, [outer shirts including evening, dress,] polo, and sports shirts, [collars,] paja-		

	mas, [robes, smoking jackets, dressing gowns, mufflers,] gloves, [hose,] belts, [suspenders, garters,] boots, slippers, shoes, [overshoes,] beach wear, swimwear, formal wear, namely, jackets, pants, suits, shirts, shoes, cummerbunds, ties [, suspenders and gowns]		
U.S. Registration No.	3029206	Application Date	07/08/2005
Registration Date	12/13/2005	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1964/09/13 First Use In Commerce: 1964/09/13 cosmetics and toiletries, namely, emeryboards, cologne, cologne spray, after-shave lotion, after-shaving balms, shaving cream, [soap, deodorant for personal use,] shampoo, [styling gels,] body lotion, body gel, fragrances for personal use, body creams, shower gels, skin cleansing cream, and skin and body lotions for personal use</p> <p>Class 008. First use: First Use: 1948/12/31 First Use In Commerce: 1948/12/31 Nail implements, namely, fingernail and toenail clippers, tweezers, cuticle nippers and scissors, and nail buffers; flatware, namely, forks, [table and kitchen knives] and spoons [; pocket knives]</p> <p>Class 009. First use: First Use: 1993/03/31 First Use In Commerce: 1993/03/31 Eyeglasses, comprising spectacles, spectacle frames, sunglasses, [eyeglass chains, eyeglass retaining bands,] eyeglass cases and lens [; binoculars, tape measures and pedometers, calculators, electronic calendars, electrically operated shoe shine units; barometers; electric or battery operated travel irons, voltage conversion devices]</p> <p>Class 014. First use: First Use: 1948/12/31 First Use In Commerce: 1948/12/31 Watches, watchbands, clocks, key chains made of precious metal, and jewelry</p> <p>Class 016. First use: First Use: 1903/01/03 First Use In Commerce: 1903/01/03 [Tie Cases Made of Cardboard and Covered with Paper or Fabric and Sold Empty, Shoe Bags for Travel,] Garment Bags for Travel, diaries; [thesauri; dictionaries;] books on a variety of subjects, namely, history, wine, dining, etiquette, fashion, public speaking, and game rule books; personal organizers; calendars; stationery; [gift wrapping paper;] giftboxes; [gift bags;] appointment books; greeting cards; mail order catalogs featuring all of the foregoing as well as clothing and accessories [, and cosmetics]</p> <p>Class 018. First use: First Use: 1903/01/13 First Use In Commerce: 1903/01/13 Handbags, tote bags, backpacks, luggage, wallets, purses, key cases, briefcases, duffel bags, all-purpose sport bags, business card cases, credit card cases; briefcase-type portfolios, billfolds, tiecase, attaché cases, passport cases and umbrellas</p>		


	<p>Class 020. First use: First Use: 1981/12/31 First Use In Commerce: 1981/12/31 picture frames [, furniture] and pillows</p> <p>Class 021. First use: First Use: 1914/00/00 First Use In Commerce: 1914/00/00 [Hair combs and brushes, serving spoons and forks not made of metal; wood- enware,] porcelain and china, namely, dishes, bowls, plates, serving platters, saladbowls, [salad servers, cake servers,] cups, saucers, [salt and pepper shakers,] non-electric coffee pots, tea pots not made of metal, containers for serving cream not made of metal, [napkin holders, napkin rings not of precious metal,] candlestick holders not made of metal, vases and pitchers; crystal and glass beverage glassware, namely, [cocktail shakers, mugs, goblets,] wine- glasses, [coasters,] decanters, pitchers, bowls, vases, [carafes, flasks, ice buckets, ice tongs not made of metal; ceramic and laminated accessories, namely, soap dishes and toothbrush holders; corkscrews]</p> <p>Class 024. First use: First Use: 1903/01/03 First Use In Commerce: 1903/01/03 bed sheets, [comforters, bed blankets,] dust ruffles, duvet covers, pillow cases, pillow shams, bed shams, bed spreads, [shower curtains,] towels, wash cloths, [fabric napkins, fabric placemats, fabric tablecloths and curtains]</p> <p>Class 025. First use: First Use: 1856/00/00 First Use In Commerce: 1856/00/00 Men's, women's, boy's and girl's shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts including evening, dress, polo and sports shirts, collars, pajamas, robes, smoking jackets, dressing gowns, mufflers, gloves, hose, belts, suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear, and formal wear, namely, jackets, pants, suits, shirts, shoes, cummerbunds, ties, suspenders and gowns</p> <p>Class 027. First use: First Use: 2005/03/31 First Use In Commerce: 2005/03/31 [wallpaper]</p> <p>Class 028. First use: First Use: 1903/03/31 First Use In Commerce: 1903/03/31 Golf accessories and golf equipment, namely, divot tools, ball markers, golf balls, golf clubs, golf bags, [golf ball washers, non-motorized golf carts,] golf tees, and golf club covers</p> <p>Class 035. First use: First Use: 1818/00/00 First Use In Commerce: 1818/00/00 retail store services, online retail store services and mail order catalog services featuring clothing for men, women and children, sporting goods, eyewear, fra- grance, body lotions, housewares, personal accessories and luggage</p>
--	---


U.S. Registration No.	1771690	Application Date	07/27/1992
Registration Date	05/18/1993	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1990/09/00 First Use In Commerce: 1990/09/00 foods; namely, cakes, cookies		


U.S. Registration No.	3250433	Application Date	12/23/2004
Registration Date	06/12/2007	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 1998/08/01 First Use In Commerce: 1998/08/01 Handbags, tote bags, backpacks, luggage, wallets, purses, key cases, briefcases, duffel bags, all-purpose sport bags, business card cases, credit card cases; briefcase-type portfolios, billfolds, attache cases, and key cases

U.S. Registration No.	1835798	Application Date	01/11/1993
Registration Date	05/10/1994	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1818/00/00 First Use In Commerce: 1818/00/00 retail store and mail order catalog services featuring clothing and accessories therefor, leather goods, soaps and cosmetics, glassware, eyewear, home furnishings and giftware		

U.S. Registration No.	3285134	Application Date	11/21/2006
Registration Date	08/28/2007	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2005/00/00 First Use In Commerce: 2005/00/00		


	Pens		
U.S. Registration No.	4023020	Application Date	10/29/2007
Registration Date	09/06/2011	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1964/09/13 First Use In Commerce: 1964/09/13 body beauty creams; Fragrances for personal use; Scented body lotions and creams; Shower and bath gel Class 004. First use: First Use: 2006/11/00 First Use In Commerce: 2006/11/00 [Candles]		

U.S. Registration No.	3029064	Application Date	12/23/2004
Registration Date	12/13/2005	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1998/08/01 First Use In Commerce: 1998/08/01 Men's, women's, boys' and girl' shirts, tops, sweaters, jackets, pants, suits, bot- toms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts including evening, dress, polo and sports shirts, col- lars, pajamas, robes, smoking jackets, dressing gowns, mufflers, gloves, hose,		


	belts,suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swim-wear, and formal wear, namely, jackets, pants, suits, shirts, shoes, cummerbunds, ties,suspenders and gowns Class 035. First use: First Use: 1998/08/01 First Use In Commerce: 1998/08/01 Retail store, on-line ecommerce store, and mail order catalog services featuring clothing and accessories therefor, leather goods, soaps and cosmetics, glassware, tableware, eyewear, home furnishings, and giftware
--	---

U.S. Registration No.	1839876	Application Date	05/28/1992
Registration Date	06/14/1994	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1993/03/00 First Use In Commerce: 1993/03/00 eyeglasses, comprising spectacles, spectacle frames, sunglasses, eyeglass chains, eyeglass retaining bands, eyeglass cases and lens; binoculars, tape measures and pedometers, calculators, electronic calendars, electrically operated shoe shine units; barometers; travel irons, voltage conversion devices		



U.S. Registration No.	1835478	Application Date	12/09/1992
Registration Date	05/10/1994	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 1914/00/00 First Use In Commerce: 1914/00/00 beverage glassware, bottles sold empty,[jars sold empty,] beverage containers for household use, carafes, drinking flasks, insulated and uninsulated beverage bottles sold empty and drinking cups		

U.S. Registration No.	867673	Application Date	06/22/1967
Registration Date	04/01/1969	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U051 (International Class 003, 005). First use: First Use: 1964/09/13 First Use In Commerce: 1964/09/13		


	TOILETRIES FOR MEN-NAMELY, COLOGNE, AFTER SHAVE LOTION, ALL PURPOSE LOTION, HAIR TONIC, SHAVING CREAM, SHAVING SOAP, PERSONAL DEODORANT AND MOUTH-WASH Class U052 (International Class 003, 005). First use: First Use: 1964/09/13 First Use In Commerce: 1964/09/13 [TOILET SOAP AND LIQUID HAIR SHAMPOO]		
--	--	--	--

U.S. Registration No.	4171950	Application Date	08/18/2008
Registration Date	07/10/2012	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS 1818		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1964/00/00 First Use In Commerce: 1964/00/00 Cologne; Fragrances for personal use		

U.S. Registration No.	5341026	Application Date	06/06/2014
Registration Date	11/21/2017	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS 1818 RED FLEECE		


Design Mark			
Description of Mark	The mark consists of a repeat striped rectangular drawing with the colors red, gold, blue, gold, blue, gold, red with a white oval device in the center with a red concentric oval within and featuring the text "BROOKS BROTHERS", the Brooks Brothers Golden Fleece logo, the numbers "1818" and the text "RED FLEECE", all in red.		
Goods/Services	Class 003. First use: First Use: 2014/06/00 First Use In Commerce: 2014/06/00 After shave lotions; after-shave balms; after-shave creams; bath gel; bath lotion; bath soaps; bathing lotions; beauty lotions; body lotion; body sprays; cologne; eau de perfume; eau-de-toilette; face and body beauty creams; face and body lotions; fragrances for personal use; perfume; perfumes, aftershaves and colognes; scented body lotions and creams; scented body spray; shampoos; shaving balm; shaving cream; shaving gel; shaving preparations; shower and bath gel; skin cream		
U.S. Registration No.	3821895	Application Date	02/15/2010
Registration Date	07/20/2010	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS BB COUNTRY CLUB		
Design Mark			
Description of Mark	The mark consists of the terms "BROOKS BROTHERS" in a script font and a crest design containing the letters "BB" with a decorative partition between the two letters and a ribbon containing the terms "COUNTRY CLUB".		


Goods/Services	<p>Class 003. First use: First Use: 2003/03/31 First Use In Commerce: 2003/03/31 Fragrances, after shave balm, body creams and body wash</p> <p>Class 018. First use: First Use: 2003/03/31 First Use In Commerce: 2003/03/31 [handbags, tote bags, backpacks, luggage, wallets, purses, duffle bags, all-purpose sport bags, billfolds, key cases, travel bags, overnight bags, umbrellas]</p> <p>Class 025. First use: First Use: 2003/03/31 First Use In Commerce: 2003/03/31 shirts, tops, [sweaters,] jackets, pants, [bottoms, socks, hats and caps, shorts, coats,] underwear, [vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear,] trousers [, ties, pajamas, robes, gloves, belts, boots, beach wear, swimwear]</p> <p>Class 028. First use: First Use: 2003/03/31 First Use In Commerce: 2003/03/31 golf accessories and golf equipment, namely, golf balls, golf bags, golf tees, and golf club covers</p> <p>Class 035. First use: First Use: 2003/03/31 First Use In Commerce: 2003/03/31 [Retail mail order services and retailstores services and computerized online-ordering and online retail store services via a computer network in the field of consumer goods, namely, clothing, luggage, wallets, cosmetics and jewelry]</p>
----------------	--

U.S. Registration No.	4132169	Application Date	07/17/2008
Registration Date	04/24/2012	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS COUNTRY CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 2003/03/31 First Use In Commerce: 2003/03/31 [Bath soaps;]bathing lotions; cologne[; shower and bath gel]</p>		


U.S. Registration No.	2882928	Application Date	06/12/2002
Registration Date	09/07/2004	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS COUNTRY CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 2004/04/00 First Use In Commerce: 2004/04/00 [HANDBAGS, TOTE BAGS,] [BACKPACKS, LUGGAGE, WALLETS,] [PURSES,] [KEY CASES, BRIEF CASES, DUFFLE BAGS, ALL-PURPOSE SPORT BAGS, BUSINESS CARD CASES, CREDIT CARD CASES, BRIEFCASE-TYPE PORTFOLIOS,BILLFOLDS, ATTACHE CASES, KEY</p>		


	<p>CASES, PASSPORT CASES, SUIT BAGS, WAIST AND FANNYPACKS; TRUNKS, TRAVEL BAGS, HAT BOXES FOR TRAVEL, LUGGAGE TAGS, OVERNIGHT BAGS AND CASES; COSMETIC; TOILETRY AND VAN-ITYCASES SOLD EMPTY;] [UMBRELLAS,] [CANES AND WALKING STICKS]</p> <p>Class 025. First use: First Use: 2004/04/00 First Use In Commerce: 2004/04/00 CLOTHING, NAMELY, SHIRTS, TOPS, SWEATERS, JACKETS, PANTS, [SUITS,] BOTTOMS, [SOCKS,] HATS AND CAPS; [SHOES;] SHORTS, COATS, [NECKTIES,] UNDERWEAR, VESTS, [ROBES, HOSIERY,] SKIRTS, DRESSES, LOUNGEWEAR, [SCARVES, RAINWEAR, TROUSERS, ASCOTS, TIES, OUTER SHIRTS INCLUDING EVENING, DRESS,] POLO AND SPORTS SHIRTS, [COLLARS, PAJAMAS, ROBES, SMOKING JACKETS, DRESSING GOWNS, MUFFLERS,] GLOVES, [HOSE,] BELTS, [SUSPENDERS, GARTERS, BOOTS, SLIPPERS, SHOES, OVERSHOES, BEACH WEAR,] SWIMWEAR, [FORMAL WEAR, NAMELY, JACKETS, PANTS, SUITS, SHIRTS, SHOES, CUMMERBUNDS, TIES, SUSPENDERS AND GOWNS]</p> <p>Class 028. First use: First Use: 2004/04/00 First Use In Commerce: 2004/04/00 GOLF ACCESSORIES AND GOLF EQUIPMENT, NAMELY, GOLF BALLS, [GOLF CLUBS,] GOLF BAGS, [GOLF BALL WASHERS, NON-MOTORIZED GOLF CARTS,] GOLF TEES, AND GOLF CLUB COVERS</p>
--	---


U.S. Registration No.	404792	Application Date	07/26/1943
Registration Date	12/21/1943	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS ESTABLISHED 1818		
Design Mark			
Description of Mark	The mark consists of the Golden Fleece logo above the terms BROOKS BROTHERS in a script font with the terms Established1818 at the bottom.		
Goods/Services	Class U042 (International Class 022, 024, 026, 027). First use: First Use: 1903/01/13 First Use In Commerce: 1903/01/03 [Motor Robes, Foot Muffs, Blankets, Napkins, and] Towels		

U.S. Registration No.	404683	Application Date	07/26/1943
Registration Date	12/14/1943	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS ESTABLISHED 1818		
Design Mark			
Description of Mark	The mark consists of the Golden Fleece logo above the terms BROOKS BROTHERS in a script font with the terms Established 1818 at the bottom.		
Goods/Services	Class 018. First use: First Use: 1903/01/13 First Use In Commerce: 1903/01/13 [Riding Crops and Whips, Polo Whips, Spur-Straps, Hound Collars and Couples Beagle Collars and Couples,] Suitcases, Trunks, Duffle Bags, Gladstone Bags, Attache Cases, Wallets and Key Purses, Pocketbooks, Portfolios, Overnight Bags, [Brief Cases, Utility Bags,] Toilet Kits, Wardrobe [Trunks, Collar Boxes Made of Leather, Cravat and Handkerchief Cases Made of Leather, Beach Bags and Bathing Suit Bags, Hat and Tie Boxes Made of Leather, Boot and Shoe Trunks, Jewel Cases Made of Leather, Cases for Playing Cards, and Empty Kits for Toilet Articles]		


U.S. Registration No.	404790	Application Date	07/26/1943
Registration Date	12/21/1943	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS ESTABLISHED 1818		


Design Mark			
Description of Mark	The mark consists of The mark consists of the Golden Fleece logo above the terms BROOKS BROTHERS in a script font with the terms Established 1818 at the bottom.		
Goods/Services	Class U002 (International Class 006, 013, 014, 015, 016, 018, 020, 021, 022, 034). First use: First Use: 1903/01/13 First Use In Commerce: 1903/01/13 [Sandwich Boxes,] [Boxes for Hunting Tools, Cardboard Collar Boxes Sold Empty, Cravat Cases and Handkerchief Cases Made of Cardboard and Covered with Paper or Fabric and Sold Empty, Hat Boxes Made of Cardboard and Covered with Paper or Fabric and Sold Empty, Tie Cases Made of Cardboard and Covered with Paper or Fabric and Sold Empty, Sewing Baskets, Garden Baskets,] Shoe Bags, [Tea Baskets, Jewel Cases Made with Cardboard and Covered with Paper or Fabric and Sold Empty,] Garment Bags [, Jacketed Vacuum Bottles and Lunch-Boxes, Trays Made of Wood orCardboard Covered with Paper and Paper Cups]		
U.S. Registration No.	404625	Application Date	07/26/1943
Registration Date	12/07/1943	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS ESTABLISHED 1818		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 1903/01/13 First Use In Commerce: 1903/01/13 Walking Sticks and Canes, Umbrellas, Shooting Seats, Usable as Walking Sticks and Cane Umbrellas


U.S. Registration No.	4641284	Application Date	04/28/2014
Registration Date	11/18/2014	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS ESTABLISHED 1818 COLLEGIATE COLLECTION		
Design Mark			
Description of Mark	The mark consists of a circle design containing the terms "BROOKS BROTHERS", beneath which is the Golden Fleece design, beneath which are the terms		


	"ESTABLISHED 1818". Beneath the circle design are the terms "COLLEGIATE COLLECTION".
Goods/Services	Class 025. First use: First Use: 2011/08/00 First Use In Commerce: 2011/08/00 Shirts; Sweaters; Ties; Tops

U.S. Registration No.	3218098	Application Date	06/22/2006
Registration Date	03/13/2007	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS FACTORY STORE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1991/00/00 First Use In Commerce: 1991/00/00 Retail stores featuring clothing for men, women and children, sporting goods, eyewear, fragrance, body lotions, housewares, personal accessories and luggage		

U.S. Registration No.	4122925	Application Date	02/21/2011
Registration Date	04/03/2012	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS FLATIRON SHOP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2011/11/12 First Use In Commerce: 2011/11/12 Retail store services featuring clothing, footwear, eyewear, fragrances, leather goods, bags, and personal accessories		

U.S. Registration No.	4289342	Application Date	01/07/2010
Registration Date	02/12/2013	Foreign Priority	NONE

		Date	
Word Mark	BROOKS BROTHERS FLEECE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 2010/08/01 First Use In Commerce: 2010/08/01 Clothing, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ties, polo shirts, pajamas, gloves, belts, boots, slippers, beach wear, swimwear</p> <p>Class 035. First use: First Use: 2011/02/26 First Use In Commerce: 2011/02/26 Retail store services, online retail store services and mail order catalog services featuring clothing, sporting goods, eyewear, fragrance, housewares, personal accessories and luggage</p>		


U.S. Registration No.	4214156	Application Date	12/10/2007
Registration Date	09/25/2012	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS MADISON		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 2010/11/00 First Use In Commerce: 2010/11/00 Fragrances for personal use</p>		


U.S. Registration No.	2634532	Application Date	05/02/2001
Registration Date	10/15/2002	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS MAKERS		


Design Mark	BROOKS BROTHERS MAKERS
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 1943/00/00 First Use In Commerce: 1943/00/00 [Handbags, tote bags, backpacks, luggage, wallets, purses, key cases, briefcases, duffel bags, all-purpose sport bags, business card cases, credit card cases; briefcase-type portfolios, billfolds, attache cases and passport cases] Class 025. First use: First Use: 1943/00/00 First Use In Commerce: 1943/00/00 Clothing, namely, shirts, tops, [sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts including evening, dress, polo, and sports shirts, collars, pajamas, robes, smoking jackets, dressing gowns, mufflers, gloves, handkerchiefs, hose, belts, suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear and formal wear, namely jackets, pants, suits, shirts, shoes, cummerbunds,] ties, [suspenders and gowns]


U.S. Registration No.	4042389	Application Date	04/09/2008
Registration Date	10/18/2011	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS NEW YORK		
Design Mark	BROOKS BROTHERS NEW YORK		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2008/11/00 First Use In Commerce: 2008/11/00 Fragrances for personal use; After-shave lotions; Body cream Class 004. First use: First Use: 2008/11/00 First Use In Commerce: 2008/11/00 [Candles]		

U.S. Registration No.	5078203	Application Date	02/25/2013
Registration Date	11/08/2016	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS RED FLEECE		


Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 003. First use: First Use: 2014/06/00 First Use In Commerce: 2014/06/00 Shampoos; Shower and bath gel, Bath soaps, Eau-de-toilette</p> <p>Class 014. First use: First Use: 2015/06/00 First Use In Commerce: 2015/06/00 Jewelry; Tie clips; Watches</p> <p>Class 018. First use: First Use: 2016/01/00 First Use In Commerce: 2016/01/00 All purpose sport bags; All-purpose athletic bags; All-purpose carrying bags, backpacks, attachÃ© cases, briefcases, wallets, handbags, messenger bags and tote bags</p> <p>Class 025. First use: First Use: 2013/11/00 First Use In Commerce: 2013/11/00 Belts, caps, gloves, hats, hosiery, scarves, socks; bathing suits; blouses; coats; dresses; jackets; loungewear; neckties; pants; raincoats; rainwear; shirts; shorts; skirts; suits; sweat pants; sweaters; sweatshirts; swim suits; swimwear;ties; tops; trousers; vests</p>


U.S. Registration No.	5124632	Application Date	11/18/2013
Registration Date	01/17/2017	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS RED FLEECE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2013/11/00 First Use In Commerce: 2013/11/00 Mail order services featuring fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; On-line retail store services featuring fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; Retail store services featuring fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, foot-</p>		



	wear, hats, furniture, pillows, tableware, games, sporting equipment		
U.S. Registration No.	5161322	Application Date	06/04/2013
Registration Date	03/14/2017	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS THE ORIGINAL AMERICAN BRAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2017/01/06 First Use In Commerce: 2017/01/06 Mail order services featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; On-line retail store services featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; Retail store services featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; The bringing together, for the benefit of others, of a variety of goods, enabling customers to conveniently view and purchase those goods in the field of Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; The bringing together, for the benefit of others, of a variety of goods and services, enabling customers to conveniently view and purchase those goods and services from an Internet web site particularly specializing in the marketing of the sale of goods and services of others; Wholesale distributorships featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment</p>		

U.S. Registration No.	3403721	Application Date	09/10/2004
Registration Date	03/25/2008	Foreign Priority Date	NONE
Word Mark	BROOKS BROTHERS WOMEN		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 035. First use: First Use: 1998/09/11 First Use In Commerce: 1998/09/11 [Retail mail order services and] retail stores services [and computerized online ordering and retail services via a computer network] in the field of consumer goods and services, namely, clothing,[fabrics, housewares,] jewelry, leather-goods, luggage and handbags, cosmetics [, paper goods and printed matter]
----------------	--


U.S. Registration No.	2893198	Application Date	03/25/2003
Registration Date	10/12/2004	Foreign Priority Date	NONE
Word Mark	BROOKS BUYS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 Retail stores services and computerizedonline ordering and retail services viaa computer network in the field of consumer goods, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps, shoes, shorts, coats, neck-ties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, [outer shirts including evening, dress, polo, and sports shirts, collars,] pajamas, [robes, smoking jackets, dressing gowns, mufflers,] gloves, handkerchiefs, [hose,] belts [, suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear, formal wear, handbags, tote bags, backpacks, luggage, wallets, purses, key cases, brief cases, duffle bags, all-purpose sport bags, business card cases, credit card cases, briefcase-type portfolios, billfolds, attachÃ© cases,key cases, passport cases, suit bags, waist and fanny packs, trunks, travel bags, hat boxes for travel, key fobs, luggage tags, overnight bags and cases, cosmetic, toiletry and vanity cases sold empty, umbrellas, canes, and walking sticks,cosmetics and jewelry, golf accessories, namely, golf equipment including golf balls, golf clubs, golf bags, golf shoes, golf ball washers, golf carts, golf tees, and golf club covers]		

U.S. Registration No.	2498929	Application Date	09/22/1999
Registration Date	10/16/2001	Foreign Priority Date	NONE
Word Mark	BROOKS STRETCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1999/03/00 First Use In Commerce: 1999/03/00 Clothing, namely, shirts, pants, [shorts, skirts, sweaters,] jackets, [shoes, socks, ties, hats, overcoats, dresses,underwear, hosiery, scarves, blouses, swimwear,] suits, [loungewear, caps, gloves, pajamas, ascots, trousers, rain-coats, parkas, vests, polo and sport shirts, belts, suspenders, boots, slippers, sport coats, dress shirts, formal wear, namely jackets, pants, suits, shirts, shoes,		

	cummerbunds, ties, suspenders and gowns and robes]		
U.S. Registration No.	2625045	Application Date	03/15/2001
Registration Date	09/24/2002	Foreign Priority Date	NONE
Word Mark	BROOKSBROTHERS.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 Retail store services, mail order services and computerized on-line retail services via a computer network featuring a wide variety of consumer goods; computerized on-line ordering services		
U.S. Registration No.	4142789	Application Date	11/03/2011
Registration Date	05/15/2012	Foreign Priority Date	NONE
Word Mark	BROOKSCOOL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/03/00 First Use In Commerce: 2003/03/00 Jackets; Pants; Shirts; Suits		
U.S. Registration No.	3861885	Application Date	08/19/2009
Registration Date	10/12/2010	Foreign Priority Date	NONE
Word Mark	BROOKSIE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2009/11/01 First Use In Commerce: 2009/11/01 Teddy bears

U.S. Registration No.	3009280	Application Date	04/28/2001
Registration Date	10/25/2005	Foreign Priority Date	NONE
Word Mark	BROOKSSTORM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 Clothing with water resistant properties namely jackets, coats and rainwear		


U.S. Registration No.	5386978	Application Date	11/20/2014
Registration Date	01/23/2018	Foreign Priority Date	NONE
Word Mark	BROOKSTWEED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2017/08/00 First Use In Commerce: 2017/08/00 clothing, namely, blazers, coats, jackets and vests		

U.S. Registration No.	5477176	Application Date	07/27/2017
Registration Date	05/22/2018	Foreign Priority Date	NONE
Word Mark	MY BROOKS REWARDS		

Design Mark	MY BROOKS REWARDS
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2017/10/00 First Use In Commerce: 2017/10/00 Providing incentive award programs through issuance and processing of loyalty points for purchase of a company's goods and services

U.S. Registration No.	5477177	Application Date	07/27/2017
Registration Date	05/22/2018	Foreign Priority Date	NONE
Word Mark	MY BROOKS REWARDS		
Design Mark			
Description of Mark	The mark consists of the wording "MY BROOKS REWARDS" in stylized font, above which appears a design of a sheep suspended from a ring by a ribbon tied around its middle.		
Goods/Services	Class 035. First use: First Use: 2017/10/00 First Use In Commerce: 2017/10/00 Providing incentive award programs through issuance and processing of loyalty points for purchase of a company's goods and services		

U.S. Registration No.	2498978	Application Date	11/08/1999
Registration Date	10/16/2001	Foreign Priority	NONE

		Date	
Word Mark	THE BROOKS CARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1999/11/00 First Use In Commerce: 1999/11/00 Credit card services		

Attachments	76024283#TMSN.png(bytes) 85227463#TMSN.png(bytes) 85494521#TMSN.png(bytes) 78666736#TMSN.png(bytes) 78538066#TMSN.png(bytes) 77048808#TMSN.png(bytes) 77315642#TMSN.png(bytes) 78538053#TMSN.png(bytes) 72274477#TMSN.png(bytes) 77549635#TMSN.png(bytes) 86302730#TMSN.png(bytes) 77936030#TMSN.png(bytes) 77524904#TMSN.png(bytes) 71462304#TMSN.png(bytes) 71462299#TMSN.png(bytes) 71462298#TMSN.png(bytes) 71462303#TMSN.png(bytes) 86264393#TMSN.png(bytes) 78914606#TMSN.png(bytes) 85247752#TMSN.png(bytes) 77907226#TMSN.png(bytes) 77348241#TMSN.png(bytes) 76249859#TMSN.png(bytes) 77443939#TMSN.png(bytes) 85859593#TMSN.png(bytes) 86121225#TMSN.png(bytes) 85949984#TMSN.png(bytes) 78979708#TMSN.png(bytes) 78229743#TMSN.png(bytes) 75806140#TMSN.png(bytes) 85463944#TMSN.png(bytes) 77807759#TMSN.png(bytes) 86460507#TMSN.png(bytes) 87545715#TMSN.png(bytes) 87545720#TMSN.png(bytes) 75843184#TMSN.png(bytes) Notice of Oppn adv. Brooks Sports Reduced.pdf(5603307 bytes)
Signature	/JSW/

Name	Joshua S. Wolkoff
Date	10/03/2018

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Serial No. 87/804,267
For the Mark: BROOKS
Filed on February 20, 2018
Published in the *Official Gazette* on June 5, 2018

BROOKS BROTHERS GROUP, INC.

Opposer,

- *against* -

BROOKS SPORTS, INC.

Applicant.

Opposition No.:

NOTICE OF OPPOSITION

Brooks Brothers Group, Inc. (“Brooks Brothers” or “Opposer”) believes it will be damaged by the registration of the mark BROOKS as shown in Application Serial No. 87/804,267, filed on February 20, 2018 by Brooks Sports, Inc. (“Brooks Sports” or “Applicant”), covering “[a]thletic footwear; athletic clothing, namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweat shirts, skirts, leggings, rainwear, vests” in International Class 25, and published for opposition on June 5, 2018. Brooks Brothers alleges, solely for the purpose of this proceeding, as grounds for this opposition, the following:

Brooks Brothers’ Trademarks

1. Brooks Brothers is the oldest luxury clothing and apparel company in the United States with origins that trace back to 1818. Over the course of its storied history, Brooks Brothers has dressed captains of industry, Hollywood legends, and politicians – including 40 out of 45 U.S. Presidents. Since its founding, Brooks Brothers has grown from a small family

haberdasher to an iconic global brand that has shaped and defined the idiom of American fashion.

2. Today, Brooks Brothers operates more than 280 retail stores in the United States alone, and more than 700 store locations in 45 countries around the world. Brooks Brothers also maintains a robust e-commerce platform that enables its customers to browse and order Brooks Brothers' merchandise from virtually anywhere, at any time.

3. For at least 150 years, Brooks Brothers has continuously used the BROOKS BROTHERS trademark in interstate commerce in connection with a wide array of goods and services, including clothing, jewelry, sporting goods, housewares, home furnishings, and retail store services related to these items.

4. In addition, over the years, Brooks Brothers has continuously used various BROOKS-formative marks which utilize BROOKS as the leading prefix or primary distinctive word, in combination with non-distinctive words and phrases, in interstate commerce in connection with a wide array of goods and services, including, by way of example, BROOKSCOOL® (for clothing apparel made of ultra lightweight fabric), BROOKSTWEED® (for clothing), BROOKSTORM® (for water resistant clothing), BROOKS STRETCH® (for clothing), BROOKS BOYS® (for children's clothing), BROOKSTECH™ (for innovative clothing made from lightweight, breathable merino wool), THE BROOKS CARD® (for credit card services), and MY BROOKS REWARDS® (for a customer loyalty program).

5. As a result of Brooks Brothers' commitment to innovation and craftsmanship, substantial investment, extensive advertising and promotional efforts, and prominent and continuous use of marks consisting primarily or exclusively of the words "BROOKS BROTHERS" or "BROOKS" as the leading term or prefix of various BROOKS-formative marks

(the “Brooks Brothers Trademarks”), Brooks Brothers has become widely recognized to the purchasing public as the source of a variety of goods and services bearing the Brooks Brothers Trademarks. As a result, the Brooks Brothers Trademarks have become synonymous with the goodwill and reputation of Opposer.

6. By virtue of the foregoing, the BROOKS BROTHERS® trademark is famous and entitled to a wide zone of protection.

7. In recognition of its rights in the Brooks Brothers Trademarks, Opposer has secured numerous U.S. federal trademark registrations for marks in which the words “BROOKS” or “BROOKS BROTHERS” form the dominant portion of the trademark, including, but not limited to:

Mark	Reg. No.	Goods and Services	Reg. Date
BROOKS BROTHERS	667458	Class 25: <i>Men's and boys' clothing-namely, suits, coats including topcoats, overcoats, and raincoats, sport coats, jackets, parkas, sweaters, vests, trousers, walking shorts, outer shirts including evening, dress, polo, and sports shirts, collars, pajamas, robes, smoking jackets, dressing gowns, underwear, mufflers, gloves, neckties, handkerchiefs, hose, caps, hats, belts, suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear, formal wear and military uniforms; and women's clothing-namely, outer</i>	Sept. 23, 1958

Mark	Reg. No.	Goods and Services	Reg. Date
		<i>shirts, walking shorts, sweaters, raincoats, and outer coats.</i>	
346 BROOKS BROTHERS	2716108	Class 25: <i>Clothing, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps, shoes, shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, outer shirts, including evening, dress, polo, and sports shirts, collars, pajamas, dressing gowns, mufflers, gloves, hose, belts, suspenders, garters, boots, slippers, overshoes, beachwear, swimwear.</i>	May 13, 2003
BLACK FLEECE BY BROOKS BROTHERS	4012556	Class 3: <i>Fragrances</i>	Aug. 16, 2011
BLACK FLEECE BY BROOKS BROTHERS	4359876	Class 25: <i>Belts; Blouses; Boots; Bottoms; Coats; Dresses; Evening dresses; Gloves; Hats; Hosiery; Jackets; Mufflers; Neckties; Pants; Rainwear; Scarves; Shirts; Shoes; Shorts; Skirts; Socks; Suits; Suspenders; Sweaters; Ties; Tops; Trousers, none of the forgoing include goods made from black fleece fabric.</i>	July 2, 2013
BROOKS BOYS	2765572	Class 25: <i>Clothing, namely, shirts, tops,</i>	Sept. 16, 2003



Mark	Reg. No.	Goods and Services	Reg. Date
		<i>sweaters, jackets, pants, suits, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, scarves, rainwear, trousers, ascots, ties, polo, and sports shirts, pajamas, gloves, belts, boots, slippers, shoes, beach wear, swimwear, formal wear, namely, jackets, pants, suits, shirts, shoes, cummerbunds, ties.</i>	
BROOKS BROTHERS	3029206	<p>Class 3: <i>Cosmetics and toiletries, namely, emery boards, cologne, cologne spray, after-shave lotion, after-shaving balms, shaving cream, shampoo, body lotion, body gel, fragrances for personal use, body creams, shower gels, skin cleansing cream, and skin and body lotions for personal use.</i></p> <p>Class 8: <i>Nail implements, namely, fingernail and toenail clippers, tweezers, cuticle nippers and scissors, and nail buffers; flatware, namely, forks, and spoons.</i></p> <p>Class 9: <i>Eyeglasses, comprising spectacles, spectacle frames, sunglasses, eyeglass cases and lens.</i></p>	Dec. 13, 2005

Mark	Reg. No.	Goods and Services	Reg. Date
		<p>Class 14: <i>Watches, watchbands, clocks, key chains made of precious metal, and jewelry.</i></p> <p>Class 16: <i>Garment bags for travel, diaries; books on a variety of subjects, namely, history, wine, dining, etiquette, fashion, public speaking, and game rule books; personal organizers; calendars; stationery; gift boxes; appointment books; greeting cards; mail order catalogs featuring all of the foregoing as well as clothing and accessories.</i></p> <p>Class 18: <i>Handbags, tote bags, backpacks, luggage, wallets, purses, key cases, briefcases, duffel bags, all-purpose sport bags, business card cases, credit card cases; briefcase-type portfolios, billfolds, tie case, attaché cases, passport cases and umbrellas.</i></p> <p>Class 20: <i>Picture frames and pillows.</i></p> <p>Class 21: <i>Porcelain and china, namely, dishes, bowls, plates, serving</i></p>	






Mark	Reg. No.	Goods and Services	Reg. Date
		<p><i>platters, salad bowls, cups, saucers, non-electric coffee pots, tea pots not made of metal, containers for serving cream not made of metal, candlestick holders not made of metal, vases and pitchers; crystal and glass beverage glassware, namely, wineglasses, decanters, pitchers, bowls, vases.</i></p> <p>Class 24: <i>Bed sheets, dust ruffles, duvet covers, pillow cases, pillow shams, bed shams, bed spreads, towels, wash cloths.</i></p> <p>Class 25: <i>Men's, women's, boy's and girl's shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts including evening, dress, polo and sports shirts, collars, pajamas, robes, smoking jackets, dressing gowns, mufflers, gloves, hose, belts, suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear, and formal wear, namely,</i></p>	

Mark	Reg. No.	Goods and Services	Reg. Date
		<i>jackets, pants, suits, shirts, shoes, cummerbunds, ties, suspenders and gowns.</i> Class 28: <i>Golf accessories and golf equipment, namely, divot tools, ball markers, golf balls, golf clubs, golf bags, golf tees, and golf club covers.</i> Class 35: <i>Retail store services, online retail store services and mail order catalog services featuring clothing for men, women and children, sporting goods, eyewear, fragrance, body lotions, housewares, personal accessories and luggage.</i>	
BROOKS BROTHERS	1771690	Class 30: <i>foods; namely, cakes, cookies</i>	May 18, 1993
BROOKS BROTHERS	3250433	Class 18: <i>Handbags, tote bags, backpacks, luggage, wallets, purses, key cases, briefcases, duffel bags, all-purpose sport bags, business card cases, credit card cases; briefcase-type portfolios, billfolds, attache cases, and key cases.</i>	June 12, 2007
BROOKS BROTHERS	1835798	Class 42: <i>retail store and mail order catalog services featuring clothing and accessories therefor, leather goods, soaps and</i>	May 10, 1994

Mark	Reg. No.	Goods and Services	Reg. Date
		<i>cosmetics, glassware, eyewear, home furnishings and giftware</i>	
BROOKS BROTHERS	3285134	Class 16: <i>Pens</i>	Aug. 28, 2007
BROOKS BROTHERS	4023020	Class 3: <i>Body beauty creams; Fragrances for personal use; Scented body lotions and creams; Shower and bath gel.</i>	Sept. 6, 2011
BROOKS BROTHERS	3029064	<p>Class 25: <i>Men's, women's, boys' and girl' shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts including evening, dress, polo and sports shirts, collars, pajamas, robes, smoking jackets, dressing gowns, mufflers, gloves, hose, belts, suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear, and formal wear, namely, jackets, pants, suits, shirts, shoes, cummerbunds, ties, suspenders and gowns.</i></p> <p>Class 35: <i>Retail store, on-line ecommerce store, and mail order catalog services featuring clothing and accessories therefor,</i></p>	Dec. 13, 2005

Mark	Reg. No.	Goods and Services	Reg. Date
		<i>leather goods, soaps and cosmetics, glassware, tableware, eyewear, home furnishings, and giftware.</i>	
BROOKS BROTHERS	1839876	Class 9: <i>eyeglasses, comprising spectacles, spectacle frames, sunglasses, eyeglass cases.</i>	June 14, 1994
BROOKS BROTHERS	1835478	Class 21: <i>beverage glassware, bottles sold empty, jars sold empty, beverage containers for household use, carafes, drinking flasks, insulated and uninsulated beverage bottles sold empty and drinking cups</i>	May 10, 1994
	0867673	Class 3: <i>Toiletries for men-namely, cologne, after shave lotion, all purpose lotion, hair tonic, shaving cream, shaving soap, personal deodorant and mouth-wash.</i>	April 1, 1969
BROOKS BROTHERS 1818	4171950	Class 3: <i>Cologne; Fragrances for personal use</i>	July 10, 2012
	5341026	Class 3: <i>After shave lotions; after-shave balms; after-shave creams; bath gel; bath lotion; bath soaps; bathing lotions; beauty lotions; body lotion; body sprays; cologne; eau de perfume; eau-de-toilette; face and body beauty creams; face and body lotions; fragrances for personal</i>	Nov. 21, 2017

Mark	Reg. No.	Goods and Services	Reg. Date
		<i>use; perfume; perfumes, aftershaves and colognes; scented body lotions and creams; scented body spray; shampoos; shaving balm; shaving cream; shaving gel; shaving preparations; shower and bath gel; skin cream</i>	
	3821895	<p>Class 3: <i>Fragrances, after shave balm, body creams and body wash.</i></p> <p>Class 25: <i>Shirts, jackets, pants, underwear, trousers.</i></p> <p>Class 28: <i>Golf accessories and golf equipment, namely, golf balls, golf bags, golf tees, and golf club covers.</i></p>	July 20, 2010
BROOKS BROTHERS COUNTRY CLUB	4132169	Class 3: <i>Bath soaps; bathing lotions; cologne; shower and bath gel.</i>	April 24, 2012
BROOKS BROTHERS COUNTRY CLUB	2882928	<p>Class 25: <i>Clothing, namely, shirts, tops, sweaters, jackets, pants, bottoms, hats and caps; shorts, coats, underwear, vests, skirts, dresses, loungewear, polo and sports shirts, gloves, belts, swimwear.</i></p> <p>Class 28: <i>Golf accessories and golf equipment, namely, golf balls, golf bags, golf tees, and golf club covers</i></p>	Sept. 7, 2004

Mark	Reg. No.	Goods and Services	Reg. Date
	0404792	Class 24: <i>Towels</i>	Dec. 21, 1943
	0404683	Class 18: <i>Suitcases, Trunks, Duffle Bags, Gladstone Bags, Attache Cases, Wallets and Key Purses, Pocketbooks, Portfolios, Overnight Bags, Toilet Kits, Wardrobe</i>	Dec. 14, 1943
	0404790	Class 16: <i>Sandwich Boxes, Shoe Bags, Garment Bags, Jacketed Vacuum Bottles and Lunch-Boxes, Trays Made of Wood or Cardboard Covered with Paper and Paper Cups.</i>	Dec. 21, 1943
	404625	Class 18: <i>Walking Sticks and Canes, Umbrellas, Shooting Seats, Usable as Walking Sticks and Cane Umbrellas</i>	Dec. 7, 1943
	4641284	Class 25: <i>Shirts; sweaters; ties; tops.</i>	Nov. 18, 2014
BROOKS BROTHERS FACTORY STORE	3218098	Class 35: <i>Retail stores featuring clothing for men,</i>	March 13, 2007


Mark	Reg. No.	Goods and Services	Reg. Date
		<i>women and children, sporting goods, eyewear, fragrance, body lotions, housewares, personal accessories and luggage</i>	
BROOKS BROTHERS FLATIRON SHOP	4122925	Class 35: - Retail store services featuring clothing, footwear, eyewear, fragrances, leather goods, bags, and personal accessories.	April 3, 2012
BROOKS BROTHERS FLEECE	4289342	<p>Class 25: Clothing, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ties, polo shirts, pajamas, gloves, belts, boots, slippers, beach wear, swimwear</p> <p>Class 35: Retail store services, online retail store services and mail order catalog services featuring clothing, sporting goods, eyewear, fragrance, housewares, personal accessories and luggage</p>	Feb. 12, 2013
BROOKS BROTHERS MADISON	4214156	Class 3: Fragrances for personal use	Sept. 25, 2012
BROOKS BROTHERS MAKERS	2634532	Class 25: Clothing, namely, shirts, tops, ties.	Oct. 15, 2002
BROOKS BROTHERS NEW YORK	4042389	Class 3: Fragrances for personal use; after-shave	Oct. 18, 2011

Mark	Reg. No.	Goods and Services	Reg. Date
		<i>lotions; body cream.</i>	
BROOKS BROTHERS RED FLEECE	5078203	<p>Class 3: <i>Shampoos; Shower and bath gel, Bath soaps, Eau-de-toilette</i></p> <p>Class 14: <i>Jewelry; Tie clips; Watches</i></p> <p>Class 18: <i>All purpose sport bags; All-purpose athletic bags; All-purpose carrying bags, backpacks, attaché cases, briefcases, wallets, handbags, messenger bags and tote bags</i></p> <p>Class 25: <i>Ascots; bathing suits; belts; blouses; caps; coats; cummerbunds; dresses; footwear; gloves; gowns; hats; hosiery; jackets; loungewear; neckties; pajamas; pants; raincoats; rainwear; robes; scarves; shirts; shorts; skirts; socks; suits; suspenders; sweat pants; sweaters; sweatshirts; swim suits; swimwear; ties; tops; trousers; underwear; vests</i></p>	Nov. 6, 2016
BROOKS BROTHERS RED FLEECE	5124632	<p>Class 35: <i>Mail order services featuring fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage,</i></p>	Jan. 17, 2017

Mark	Reg. No.	Goods and Services	Reg. Date
		<i>clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; On-line retail store services featuring fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; Retail store services featuring fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment</i>	
BROOKS BROTHERS THE ORIGINAL AMERICAN BRAND	5161322	Class 35: <i>Mail order services featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; On-line retail store services featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather</i>	March 14, 2017

Mark	Reg. No.	Goods and Services	Reg. Date
		<p><i>goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; Retail store services featuring</i></p> <p><i>Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; The bringing together, for the benefit of others, of a variety of goods, enabling customers to conveniently view and purchase those goods in the field of</i></p> <p><i>Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; The bringing together, for the benefit of others, of a variety of goods and services, enabling customers to conveniently view and purchase those goods and services from an Internet web site particularly specializing in the</i></p>	

Mark	Reg. No.	Goods and Services	Reg. Date
		<i>marketing of the sale of goods and services of others; Wholesale distributorships featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment</i>	
BROOKS BROTHERS WOMEN	3403721	Class 35: <i>Retail stores services in the field of consumer goods and services, namely, clothing, jewelry, leather goods, luggage and handbags, cosmetics</i>	March 25, 2008
BROOKS BUYS	2893198	Class 35: <i>Retail stores services and computerized online ordering and retail services via a computer network in the field of consumer goods, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps, shoes, shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, pajamas, gloves, handkerchiefs, belts.</i>	Oct. 12, 2004
BROOKS STRETCH	2498929	Class 25: <i>Clothing, namely, shirts, pants,</i>	Oct. 16, 2001

Mark	Reg. No.	Goods and Services	Reg. Date
		<i>jackets, suits</i>	
BROOKSBROTHERS.COM	2625045	Class 35: <i>Retail store services, mail order services and computerized on-line retail services via a computer network featuring a wide variety of consumer goods; computerized on-line ordering services</i>	Sept. 24, 2002
BROOKSCOOL	4142789	Class 25: <i>Jackets; pants; shirts; suits</i>	May 15, 2012
BROOKSIE	3861885	Class 28: <i>Teddy bears</i>	Oct. 12, 2010
BROOKSSTORM	3009280	Class 25: <i>Clothing with water resistant properties namely jackets, coats and rainwear</i>	Oct. 25, 2005
BROOKSTWEED	5386978	Class 25: <i>clothing, namely, blazers, coats, jackets and vests</i>	Jan. 23, 2018
MY BROOKS REWARDS	5477176	Class 35: <i>Providing incentive award programs through issuance and processing of loyalty points for purchase of a company's goods and services</i>	May 22, 2018
	5477177	Class 35: <i>Providing incentive award programs through issuance and processing of loyalty points for purchase of a company's goods and services.</i>	May 22, 2018
THE BROOKS CARD	2498978	Class 36: <i>Credit card services</i>	Oct. 16, 2001

(“Brooks Brothers’ Registrations”).

8. Brooks Brothers’ Registrations are valid and subsisting. They constitute *prima facie* evidence of their validity and serve as conclusive evidence of Brooks Brothers’ exclusive rights to use the foregoing marks in connection with Brooks Brothers’ goods and services.

Brooks Sports’ Application for BROOKS

9. On February 20, 2018, Brooks Sports filed an application based upon Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), to register the BROOKS word mark (“Applicant’s Mark”) for “[a]thletic footwear; athletic clothing, namely, tops, pants, jackets, headwear, shorts, tights, hosiery, bras, gloves, mittens, sweat shirts, skirts, leggings, rainwear, vests” in International Class 25, which was assigned Application Ser. No. 87/804,267 (the “Application”).

10. On June 5, 2018, the Application was published for opposition in the *Official Gazette*.

11. On June 21, 2018, Brooks Brothers filed the first of two requests for extensions of time to oppose Brooks Sports’ Application. Brooks Brothers was granted until October 3, 2018 to oppose Brooks Sports’ Application.

COUNT I – LIKELIHOOD OF CONFUSION
(15 U.S.C. § 1052(d))

12. Opposer incorporates by reference the allegations in each of the preceding paragraphs as if fully set forth herein.

13. Opposer has priority over Applicant’s Mark, as Opposer has used the Brooks Brothers Trademarks in commerce before the filing date of the opposed Application, and long before any date of first use of Applicant’s Mark that Applicant may prove. In particular, Opposer has used a number of the Brooks Brothers Trademarks since at least 1850, more than

two hundred years before Applicant filed its intent-to-use application to register Applicant's Mark. Moreover, Opposer's rights are evident from Brooks Brothers' Registrations.

14. Applicant's Mark is confusingly similar to the Brooks Brothers Trademarks. Indeed, Applicant's Mark consists solely of the word "BROOKS," which is identical to the leading and dominant portion of the Brooks Brothers Trademarks in sound and appearance.

15. The goods listed in Brooks Sports' Application are identical or highly related to the goods and services covered by Brooks Brothers' Registrations, as well as various other goods and services sold and/or rendered in connection with the Brooks Brothers Trademarks.

16. Upon information and belief, Opposer's goods and services bearing the Brooks Brothers Trademarks are likely to be offered, promoted or rendered in the same channels of trade and to the same class of consumers as Applicant's goods provided under Applicant's Mark.

17. Applicant's Mark so resembles Opposer's Brooks Brothers Trademarks in overall appearance, sound, and commercial impression, as to be likely, when used in connection with the goods set forth in Applicant's Application, to cause confusion, or cause mistake, or to deceive, with consequent injury to Opposer and the public, in violation of Section 2(d), 15 U.S.C. § 1052(d).

18. In view of the widespread recognition of Opposer's Brooks Brothers Trademarks, the overwhelming similarities between the parties' marks, and Opposer's extensive use of its Brooks Brothers Trademarks for clothing and related services, consumers are likely to be confused into believing that Opposer is the source of Applicant's goods, or that Applicant or Applicant's goods are sponsored or otherwise affiliated with Opposer.

COUNT II – DILUTION BY BLURRING
(15 U.S.C. § 1125(c))

19. Opposer incorporates by reference the allegations in each of the preceding paragraphs as if fully set forth herein.

20. Opposer's BROOKS BROTHERS trademark is famous and was famous well in advance of the filing date of the opposed Application and before any date of first use of Applicant's Mark that Applicant may later prove.

21. The similarity of Opposer's famous BROOKS BROTHERS trademark and Applicant's Mark creates an association "that impairs the distinctiveness of [Opposer's] famous mark." 15 U.S.C. § 1125(c)(2)(B).

22. If Applicant's Mark is allowed to register, it will cause a likelihood of dilution by blurring that will impair distinctive quality of Opposer's BROOKS BROTHERS trademark.

23. For the foregoing reasons, Opposer is and will be further damaged by the registration of Applicant's Mark.

WHEREFORE, Brooks Brothers believes that it is being damaged, and will be damaged, by the registration of the mark shown in Application Serial No. 87/804,267, and requests that the opposition be sustained, and that registration be refused.

Brooks Brothers hereby gives notice under Rule 2.122(d) of the Trademark Rules of Practice that at any hearing or appeal in this opposition proceeding, it will rely on Brooks Brothers' Registrations as evidence in support of this Notice of Opposition. True and correct printouts of the details of Brooks Brothers' Registrations from the United States Patent and Trademark Office TESS database are attached hereto as Exhibit 1.

Dated: October 3, 2018

Respectfully submitted,

BAKER & McKENZIE LLP

By: /Lisa W. Rosaya/
Lisa W. Rosaya
Joshua S. Wolkoff
452 Fifth Avenue
New York, New York 10018
Tel: (212) 626-4100
Fax: (212) 310-1600
nyctrademarks@bakermckenzie.com

Counsel for Brooks Brothers Group, Inc.

EXHIBIT 1



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DICT](#)
[SEARCH OG](#)
[BOTTOM](#)
[HELP](#)
[PREV LIST](#)
[CURR LIST](#)
[NEXT LIST](#)

[FIRST DOC](#)
[PREV DOC](#)
[NEXT DOC](#)
[LAST DOC](#)

 Please logout when you are done to release system resources allocated for you.

 List At:

 OR to record:
Record 81 out of 90[TSDR](#)[ASSIGN Status](#)[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark BROOKS BROTHERS
Goods and Services IC 010 025 026. US 039. G & S: MEN'S AND BOYS' CLOTHING-NAMELY, SUITS, COATS INCLUDING TOPCOATS, OVERCOATS, AND RAINCOATS, SPORT COATS, JACKETS, PARKAS, SWEATERS, VESTS, TROUSERS, [KILTS,] WALKING SHORTS, OUTER SHIRTS INCLUDING EVENING, DRESS, POLO, AND SPORTS SHIRTS, COLLARS, PAJAMAS, ROBES, SMOKING JACKETS, DRESSING GOWNS, UNDERWEAR, MUFFLERS, GLOVES, NECKTIES, HANDKERCHIEFS, HOSE, CAPS, HATS, BELTS, SUSPENDERS, GARTERS, BOOTS, SLIPPERS, SHOES, OVERSHOES, BEACH WEAR, SWIMWEAR, FORMAL WEAR AND MILITARY UNIFORMS; AND WOMEN'S CLOTHING-NAMELY, OUTER SHIRTS, WALKING SHORTS, SWEATERS, RAINCOATS, AND OUTER COATS. FIRST USE: 18560000. FIRST USE IN COMMERCE: 18560000
Mark Drawing Code (1) TYPED DRAWING
Serial Number 72029152
Filing Date April 30, 1957
Current Basis 1A
Original Filing Basis 1A
Registration Number 0667458
Registration Date September 23, 1958
Owner (REGISTRANT) JULIUS GARFINCKEL & CO., INCORPORATED CORPORATION VIRGINIA 346 MADISON AVE. NEW YORK 17 NEW YORK

(LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Lisa W. Rosaya
Prior Registrations 0103889;0640370;AND OTHERS

Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECTION 8(10-YR) 20180411.
Renewal 4TH RENEWAL 20180411
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 64 out of 90[TSDR](#)[ASSIGN Status](#)[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to

TESS)

BROOKS BROTHERS 346

Word Mark	346 BROOKS BROTHERS
Goods and Services	IC 025. US 022 039. G & S: Clothing, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps, shoes, shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, [ascots, ties,] [outer shirts, including evening, dress, polo, and sports shirts, collars,] pajamas, [smoking jackets,] [dressing gowns, mufflers,] gloves, [hose,] belts, suspenders, [garters,] boots, slippers, [overshoes,] beachwear, swimwear [and formal wear, namely, jackets, pants, suits, shirts, shoes, cummerbunds, ties, suspenders and gowns]. FIRST USE: 20010228. FIRST USE IN COMMERCE: 20010228
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76024283
Filing Date	April 12, 2000
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	September 4, 2001
Registration Number	2716108
Registration Date	May 13, 2003
Owner	(REGISTRANT) Brooks Brothers, Inc. CORPORATION DELAWARE 346 Madison Avenue New York NEW YORK 10017 (LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0378603;0404792;0667458;1835798;AND OTHERS

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130515.

Renewal 1ST RENEWAL 20130515

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

 List At: OR to record:
Record 14 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
----------------------	-------------------------------	-----------------------------	--

BLACK FLEECE BY BROOKS BROTHERS

Word Mark	BLACK FLEECE BY BROOKS BROTHERS
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: Fragrances. FIRST USE: 20090901. FIRST USE IN COMMERCE: 20090901
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85227463
Filing Date	January 27, 2011
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	May 31, 2011
Registration Number	4012556
International Registration Number	1067234
Registration Date	August 16, 2011
Owner	(REGISTRANT) RETAIL BRAND ALLIANCE, INC. CORPORATION DELAWARE 100 Phoenix Avenue Enfield CONNECTICUT 06082 (LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Lisa W. Rosaya
Prior Registrations	3029206;3741232;3821895;3938254;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 20 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
------	---------------	-------------	--

BLACK FLEECE BY BROOKS BROTHERS**Word Mark**BLACK FLEECE BY **BROOKS BROTHERS****Goods and Services**

IC 025. US 022 039. G & S: Belts; Blouses; Boots; Bottoms; Coats; Dresses; Evening dresses; Gloves; Hats; Hosiery; Jackets; Mufflers; Neckties; Pants; Rainwear; Scarves; Shirts; Shoes; Shorts; Skirts; Socks; Suits; Suspenders; Sweaters; Ties; Tops; Trousers, none of the forgoing include goods made from black fleece fabric. FIRST USE: 20070800. FIRST USE IN COMMERCE: 20070800

Standard Characters Claimed**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

Serial Number

85494521

Filing Date

December 13, 2011

Current Basis

1A

Original Filing Basis

1A

Published for Opposition

April 16, 2013

Registration Number

4359876

Registration Date

July 2, 2013

Owner(REGISTRANT) **BROOKS BROTHERS GROUP, INC.** CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082**Attorney of Record**

Lisa W. Rosaya

Prior Registrations

3818372;3938254;4012556

Type of Mark TRADEMARK
Register PRINCIPAL-2(F)-IN PART
Live/Dead Indicator LIVE
Distinctiveness
Limitation Statement as to "Black Fleece"

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME **NEW USER** **STRUCTURED** **FREE FORM** **BROWSE Dict** **SEARCH OG** **BOTTOM** **HELP** Please logout when you are done to release system resources allocated for you.**Record 1 out of 1****TSDR** **ASSIGN Status** **TTAB Status** (Use the "Back" button of the Internet Browser to return to TESS)**Typed Drawing****Word Mark** BROOKS BOYS**Goods and Services** IC 025. US 022 039. G & S: Clothing, namely, shirts, tops, sweaters, jackets, pants, suits, [bottoms,] socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, [robes, hosiery, skirts, dresses, loungewear,] scarves, rainwear, trousers, ascots, ties, [outer shirts including evening, dress,] polo, and sports shirts, [collars,] pajamas, [robes, smoking jackets, dressing gowns, mufflers,] gloves, [hose,] belts, [suspenders, garters,] boots, slippers, shoes, [overshoes,] beach wear, swimwear, formal wear, namely, jackets, pants, suits, shirts, shoes, cummerbunds, ties [, suspenders and gowns]. FIRST USE: 20020930. FIRST USE IN COMMERCE: 20020930**Mark Drawing Code** (1) TYPED DRAWING**Serial Number** 78042659**Filing Date** January 10, 2001**Current Basis** 1A**Original Filing Basis** 1B**Published for Opposition** June 18, 2002**Registration Number** 2765572**Registration Date** September 16, 2003**Owner** (REGISTRANT) Brooks Brothers, Inc. CORPORATION DELAWARE 346 Madison Avenue New York NEW YORK 10017

(LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED**Attorney of Record** Lisa W. Rosaya**Type of Mark** TRADEMARK**Register** PRINCIPAL**Affidavit** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130621.

Text**Renewal** 1ST RENEWAL 20130621**Live/Dead
Indicator** LIVE[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[| HOME |](#) [SITE INDEX |](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 34 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
------	---------------	-------------	--

BROOKS BROTHERS

Word Mark**BROOKS BROTHERS****Goods and Services**

IC 003. US 001 004 006 050 051 052. G & S: cosmetics and toiletries, namely, emery boards, cologne, cologne spray, after-shave lotion, after-shaving balms, shaving cream, [soap, deodorant for personal use,] shampoo, [styling gels,] body lotion, body gel, fragrances for personal use, body creams, shower gels, skin cleansing cream, and skin and body lotions for personal use. FIRST USE: 19640913. FIRST USE IN COMMERCE: 19640913

IC 008. US 023 028 044. G & S: Nail implements, namely, fingernail and toenail clippers, tweezers, cuticle nippers and scissors, and nail buffers; flatware, namely, forks, [table and kitchen knives] and spoons [; pocket knives]. FIRST USE: 19481231. FIRST USE IN COMMERCE: 19481231

IC 009. US 021 023 026 036 038. G & S: Eyeglasses, comprising spectacles, spectacle frames, sunglasses, [eyeglass chains, eyeglass retaining bands,] eyeglass cases and lens [; binoculars, tape measures and pedometers, calculators, electronic calendars, electrically operated shoe shine units; barometers; electric or battery operated travel irons, voltage conversion devices]. FIRST USE: 19930331. FIRST USE IN COMMERCE: 19930331

IC 014. US 002 027 028 050. G & S: Watches, watchbands, clocks, key chains made of precious metal, and jewelry. FIRST USE: 19481231. FIRST USE IN COMMERCE: 19481231

IC 016. US 002 005 022 023 029 037 038 050. G & S: [Tie Cases Made of Cardboard and Covered with Paper or Fabric and Sold Empty, Shoe Bags for Travel,] Garment Bags for Travel, diaries; [thesauri; dictionaries;] books on a variety of subjects, namely, history, wine, dining, etiquette, fashion, public speaking, and game rule books; personal organizers; calendars; stationery; [gift wrapping paper;] gift boxes; [gift bags;] appointment books; greeting cards; mail order catalogs featuring all of the foregoing as well as clothing and accessories [, and cosmetics]. FIRST USE: 19030103. FIRST USE IN COMMERCE: 19030103

IC 018. US 001 002 003 022 041. G & S: Handbags, tote bags, backpacks, luggage, wallets, purses, key cases, briefcases, duffel bags, all-purpose sport bags, business card cases, credit card cases; briefcase-type portfolios, billfolds, tie case, attaché cases, passport cases and umbrellas. FIRST USE: 19030113. FIRST USE IN COMMERCE: 19030113

IC 020. US 002 013 022 025 032 050. G & S: picture frames [, furniture] and pillows. FIRST USE: 19811231. FIRST USE IN COMMERCE: 19811231

IC 021. US 002 013 023 029 030 033 040 050. G & S: [Hair combs and brushes, serving spoons and forks not made of metal; woodenware,] porcelain and china, namely, dishes, bowls, plates, serving platters, salad bowls, [salad servers, cake servers,] cups, saucers, [salt and pepper shakers,] non-electric coffee pots, tea pots not made of metal, containers for serving cream not made of metal, [napkin holders, napkin rings not of precious metal,] candlestick holders not made of metal, vases and pitchers; crystal and glass beverage glassware, namely, [cocktail shakers, mugs, goblets,] wineglasses, [coasters,] decanters, pitchers, bowls, vases, [carafes, flasks, ice buckets, ice tongs not made of metal; ceramic and laminated accessories, namely, soap dishes and toothbrush holders; corkscrews]. FIRST USE: 19140000. FIRST USE IN COMMERCE: 19140000

IC 024. US 042 050. G & S: bed sheets, [comforters, bed blankets,] dust ruffles, duvet covers, pillow cases, pillow shams, bed shams, bed spreads, [shower curtains,] towels, wash cloths, [fabric napkins, fabric placemats, fabric tablecloths and curtains]. FIRST USE: 19030103. FIRST USE IN COMMERCE: 19030103

IC 025. US 022 039. G & S: Men's, women's, boy's and girl's shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts including evening, dress, polo and sports shirts, collars, pajamas, robes, smoking jackets, dressing gowns, mufflers, gloves, hose, belts, suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear, and formal wear, namely, jackets, pants, suits, shirts, shoes, cummerbunds, ties, suspenders and gowns. FIRST USE: 18560000. FIRST USE IN COMMERCE: 18560000

(CANCELLED) IC 027. US 019 020 037 042 050. G & S: [wallpaper]. FIRST USE: 20050331. FIRST USE IN COMMERCE: 20050331

IC 028. US 022 023 038 050. G & S: Golf accessories and golf equipment, namely, divot tools, ball markers, golf balls, golf clubs, golf bags, [golf ball washers, non-motorized golf carts,] golf tees, and golf club covers. FIRST USE: 19030331. FIRST USE IN COMMERCE: 19030331

IC 035. US 100 101 102. G & S: retail store services, online retail store services and mail order catalog services featuring clothing for men, women and children, sporting goods, eyewear, fragrance, body lotions, housewares, personal accessories and luggage. FIRST USE: 18180000. FIRST USE IN COMMERCE: 18180000

**Standard
Characters
Claimed**

Mark

Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 78666736

Filing Date July 8, 2005

Current Basis 1A

Original Filing Basis 1A

Published for Opposition September 20, 2005

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 3029206

International Registration Number 0893183; 0891965; 0939041; 0977803

Registration Date December 13, 2005

Owner (REGISTRANT) Retail Brand Alliance, Inc. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

(LAST LISTED OWNER) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Lisa W. Rosaya
Prior Registrations 1835478;1835798;1839876;AND OTHERS
Type of Mark TRADEMARK. SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. PARTIAL SECT 8 (6-YR). SECTION 8(10-YR) 20160106.
Renewal 1ST RENEWAL 20160106
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 72 out of 90**TSDR****ASSIGN Status****TTAB Status**

(Use the "Back" button of the Internet Browser to return to

TESS)

Typed Drawing

Word Mark	BROOKS BROTHERS
Goods and Services	IC 030. US 046. G & S: foods; namely, cakes, cookies. FIRST USE: 19900900. FIRST USE IN COMMERCE: 19900900
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	74297721
Filing Date	July 27, 1992
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	February 23, 1993
Registration Number	1771690
Registration Date	May 18, 1993
Owner	(REGISTRANT) Brooks Brothers, Inc. CORPORATION DELAWARE 346 Madison Avenue New York NEW YORK 10017 (LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Lisa W. Rosaya
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130605.
Renewal	2ND RENEWAL 20130605
Live/Dead Indicator	LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#) | [NEXT LIST](#)
[FIRST DOC](#) | [PREV DOC](#) | [NEXT DOC](#) | [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: OR [Jump](#) to record:

Record 30 out of 90

[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

Brooks Brothers

Word Mark **BROOKS BROTHERS**
Goods and Services IC 018. US 001 002 003 022 041. G & S: Handbags, tote bags, backpacks, luggage, wallets, purses, key cases, briefcases, duffel bags, all-purpose sport bags, business card cases, credit card cases; briefcase-type portfolios, billfolds, attache cases, and key cases. FIRST USE: 19980801. USED IN ANOTHER FORM The mark was first used anywhere in a different form other than that sought to be registered on 01/13/1903. FIRST USE IN COMMERCE: 19980801
Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number 78538066
Filing Date December 23, 2004
Current Basis 1A
Original Filing Basis 1A
Published for Opposition March 13, 2007
Registration Number 3250433
Registration Date June 12, 2007
Owner (REGISTRANT) Retail Brand Alliance, Inc. CORPORATION DELAWARE 100 Phoenix Avenue Enfield CONNECTICUT 06082
 (LAST LISTED OWNER) **BROOKS BROTHERS GROUP, INC.** CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment ASSIGNMENT RECORDED

Recorded**Attorney of
Record**

Lisa W. Rosaya

**Prior
Registrations**

0404683;1835798

**Description
of Mark**

Color is not claimed as a feature of the mark.

Type of Mark TRADEMARK**Register** PRINCIPAL**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20170623.**Renewal** 1ST RENEWAL 20170623**Live/Dead
Indicator**

LIVE

[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[PREV LIST](#)[CURR LIST](#)[NEXT LIST](#)[FIRST DOC](#)[PREV DOC](#)[NEXT DOC](#)[LAST DOC](#)[| HOME |](#) [SITE INDEX|](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#) [NEXT LIST](#)[FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#) Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 70 out of 90[TSDR](#)[ASSIGN Status](#)[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to

TESS)

Typed Drawing

Word Mark BROOKS BROTHERS**Goods and Services** IC 042. US 101. G & S: retail store and mail order catalog services featuring clothing and accessories therefor, leather goods, soaps and cosmetics, glassware, eyewear, home furnishings and giftware. FIRST USE: 18180000. FIRST USE IN COMMERCE: 18180000**Mark Drawing Code** (1) TYPED DRAWING**Serial Number** 74347278**Filing Date** January 11, 1993**Current Basis** 1A**Original Filing Basis** 1A**Published for Opposition** February 15, 1994**Registration Number** 1835798**Registration Date** May 10, 1994**Owner** (REGISTRANT) Brooks Brothers, Inc. CORPORATION DELAWARE 346 Madison Avenue New York NEW YORK 10017

(LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED**Attorney of Record** Lisa W. Rosaya**Type of Mark** SERVICE MARK**Register** PRINCIPAL**Affidavit** SECT 8 (6-YR). SECTION 8(10-YR) 20140418.

Text**Renewal** 2ND RENEWAL 20140418**Live/Dead
Indicator** LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 57 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
------	---------------	-------------	--

BROOKS BROTHERS

Word Mark	BROOKS BROTHERS
Goods and Services	IC 016. US 002 005 022 023 029 037 038 050. G & S: Pens. FIRST USE: 20050000. FIRST USE IN COMMERCE: 20050000
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77048808
Filing Date	November 21, 2006
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	June 12, 2007
Registration Number	3285134
International Registration Number	0977803
Registration Date	August 28, 2007
Owner	(REGISTRANT) RETAIL BRAND ALLIANCE, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082 (LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Lisa W. Rosaya
Prior Registrations	3029064;3029180;3029206;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20170805.

Renewal 1ST RENEWAL 20170805
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 56 out of 90

(Use the "Back" button of the Internet Browser to return to

TESS)

BROOKS BROTHERS

Word Mark**BROOKS BROTHERS****Goods and Services**

IC 003. US 001 004 006 050 051 052. G & S: body beauty creams; Fragrances for personal use; Scented body lotions and creams; Shower and bath gel. FIRST USE: 19640913. FIRST USE IN COMMERCE: 19640913

IC 004. US 001 006 015. G & S: [Candles]. FIRST USE: 20061100. FIRST USE IN COMMERCE: 20061100

Standard Characters Claimed**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

Serial Number

77315642

Filing Date

October 29, 2007

Current Basis

1A

Original Filing Basis

1B

Published for Opposition

April 15, 2008

Registration Number

4023020

International Registration Number

0954328

Registration Date

September 6, 2011

Owner

(REGISTRANT) Retail Brand Alliance, Inc. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

(LAST LISTED OWNER) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 3029064;3029206;3250433;AND OTHERS

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 33 out of 90

TSDR	ASSIGN Status	TTAB Status
------	---------------	-------------

 (Use the "Back" button of the Internet Browser to return to TESS)
*Brooks Brothers***Word Mark** **BROOKS BROTHERS**

Goods and Services IC 025. US 022 039. G & S: Men's, women's, boys' and girl' shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts including evening, dress, polo and sports shirts, collars, pajamas, robes, smoking jackets, dressing gowns, mufflers, gloves, hose, belts, suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear, and formal wear, namely, jackets, pants, suits, shirts, shoes, cummerbunds, ties, suspenders and gowns. FIRST USE: 19980801. USED IN ANOTHER FORM The mark was first used anywhere in a different form other than that sought to be registered on 01/01/1818. FIRST USE IN COMMERCE: 19980801

IC 035. US 100 101 102. G & S: Retail store, on-line ecommerce store, and mail order catalog services featuring clothing and accessories therefor, leather goods, soaps and cosmetics, glassware, tableware, eyewear, home furnishings, and giftware. FIRST USE: 19980801. USED IN ANOTHER FORM The mark was first used anywhere in a different form other than that sought to be registered on 01/01/1856. FIRST USE IN COMMERCE: 19980801

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 78538053

Filing Date December 23, 2004

Current Basis 1A

Original Filing Basis 1A

Published for Opposition September 20, 2005

Registration Number 3029064

Registration December 13, 2005

Date

Owner (REGISTRANT) Retail Brand Alliance, Inc. CORPORATION DELAWARE 100 Phoenix Avenue Enfield CONNECTICUT 06082

(LAST LISTED OWNER) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0640370;0667458;1835798;AND OTHERS

Description of Mark Color is not claimed as a feature of the mark.

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20160229.

Renewal 1ST RENEWAL 20160229

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

 List At: OR to record:
Record 81 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
------	---------------	-------------	--

Typed Drawing

Word Mark **BROOKS BROTHERS**

Goods and Services IC 010 025 026. US 039. G & S: MEN'S AND BOYS' CLOTHING-NAMELY, SUITS, COATS INCLUDING TOPCOATS, OVERCOATS, AND RAINCOATS, SPORT COATS, JACKETS, PARKAS, SWEATERS, VESTS, TROUSERS, [KILTS,] WALKING SHORTS, OUTER SHIRTS INCLUDING EVENING, DRESS, POLO, AND SPORTS SHIRTS, COLLARS, PAJAMAS, ROBES, SMOKING JACKETS, DRESSING GOWNS, UNDERWEAR, MUFFLERS, GLOVES, NECKTIES, HANDKERCHIEFS, HOSE, CAPS, HATS, BELTS, SUSPENDERS, GARTERS, BOOTS, SLIPPERS, SHOES, OVERSHOES, BEACH WEAR, SWIMWEAR, FORMAL WEAR AND MILITARY UNIFORMS; AND WOMEN'S CLOTHING-NAMELY, OUTER SHIRTS, WALKING SHORTS, SWEATERS, RAINCOATS, AND OUTER COATS. FIRST USE: 18560000. FIRST USE IN COMMERCE: 18560000

Mark Drawing Code (1) TYPED DRAWING

Serial Number 72029152

Filing Date April 30, 1957

Current Basis 1A

Original Filing Basis 1A

Registration Number 0667458

Registration Date September 23, 1958

Owner (REGISTRANT) JULIUS GARFINCKEL & CO., INCORPORATED CORPORATION VIRGINIA 346 MADISON AVE. NEW YORK 17 NEW YORK

(LAST LISTED OWNER) **BROOKS BROTHERS GROUP, INC.** CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0103889;0640370;AND OTHERS

Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECTION 8(10-YR) 20180411.
Renewal 4TH RENEWAL 20180411
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 73 out of 90[TSDR](#)[ASSIGN Status](#)[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to

TESS)

Typed Drawing

Word Mark BROOKS BROTHERS

Goods and Services IC 009. US 026. G & S: eyeglasses, comprising spectacles, spectacle frames, sunglasses, eyeglass chains, eyeglass retaining bands, eyeglass cases and lens; binoculars, tape measures and pedometers, calculators, electronic calendars, electrically operated shoe shine units; barometers; travel irons, voltage conversion devices. FIRST USE: 19930300. FIRST USE IN COMMERCE: 19930300

Mark Drawing Code (1) TYPED DRAWING

Serial Number 74279208

Filing Date May 28, 1992

Current Basis 1A

Original Filing Basis 1B

Published for Opposition April 20, 1993

Registration Number 1839876

Registration Date June 14, 1994

Owner (REGISTRANT) **Brooks** Brothers, Inc. CORPORATION DELAWARE 346 Madison Avenue New York NEW YORK 10017

(LAST LISTED OWNER) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0610759;1232809

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20140426.

Renewal 2ND RENEWAL 20140426

**Live/Dead
Indicator** LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

 List At: OR to record:
Record 71 out of 90**TSDR****ASSIGN Status****TTAB Status**

(Use the "Back" button of the Internet Browser to return to

TESS)

Typed Drawing

Word Mark BROOKS BROTHERS

Goods and Services IC 021, US 002 013 023 029 030 033 040 050, G & S: beverage glassware, bottles sold empty, [jars sold empty,] beverage containers for household use, carafes, drinking flasks, insulated and uninsulated beverage bottles sold empty and drinking cups. FIRST USE: 19140000. FIRST USE IN COMMERCE: 19140000

Mark Drawing Code (1) TYPED DRAWING

Serial Number 74338598

Filing Date December 9, 1992

Current Basis 1A

Original Filing Basis 1A

Published for Opposition February 15, 1994

Registration Number 1835478

Registration Date May 10, 1994

Owner (REGISTRANT) Brooks Brothers, Inc. CORPORATION DELAWARE 346 Madison Avenue New York NEW YORK 10017

(LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0103889;0404792;AND OTHERS

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20140418.

Renewal 2ND RENEWAL 20140418
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
-----------	----------	------------	-----------	-------------	-----------	--------	------	-----------	-----------	-----------

FIRST DOC	PREV DOC	NEXT DOC	LAST DOC
-----------	----------	----------	----------

 Please logout when you are done to release system resources allocated for you.

 List At: to record:
Record 85 out of 90

TSDR	ASSIGN Status	TTAB Status
------	---------------	-------------

 (Use the "Back" button of the Internet Browser to return to TESS)

Word Mark BROOKS BROTHERS

Goods and Services IC 003 005. US 051. G & S: TOILETRIES FOR MEN-NAMELY, COLOGNE, AFTER SHAVE LOTION, ALL PURPOSE LOTION, HAIR TONIC, SHAVING CREAM, SHAVING SOAP, PERSONAL DEODORANT AND MOUTH-WASH. FIRST USE: 19640913. FIRST USE IN COMMERCE: 19640913

(CANCELLED) IC 003 005. US 052. G & S: [TOILET SOAP AND LIQUID HAIR SHAMPOO]. FIRST USE: 19640913. FIRST USE IN COMMERCE: 19640913

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 72274477

Filing Date June 22, 1967

Current Basis 1A

Original Filing Basis 1A

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 0867673

Registration Date April 1, 1969

Owner (REGISTRANT) JULIUS GARFINCKEL & CO., INCORPORATED CORPORATION VIRGINIA 1401 F ST. NW. WASHINGTON D.C. 20004

(LAST LISTED OWNER) **BROOKS BROTHERS GROUP, INC.** CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment ASSIGNMENT RECORDED

Recorded**Attorney of
Record**

Lisa W. Rosaya

**Prior
Registrations**

0103889;0794119;AND OTHERS

Type of Mark TRADEMARK**Register** PRINCIPAL**Affidavit Text** SECT 15. PARTIAL SECTION 8(10-YR) 20090410.**Renewal** 2ND RENEWAL 20090413**Live/Dead
Indicator** LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) [| SITE INDEX](#) [| SEARCH](#) [| eBUSINESS](#) [| HELP](#) [| PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 45 out of 90

TSDR	ASSIGN Status	TTAB Status
------	---------------	-------------

 (Use the "Back" button of the Internet Browser to return to TESS)
BROOKS BROTHERS 1818

Word Mark	BROOKS BROTHERS 1818
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: Cologne; Fragrances for personal use. FIRST USE: 19640000. FIRST USE IN COMMERCE: 19640000
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77549635
Filing Date	August 18, 2008
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	February 17, 2009
Registration Number	4171950
International Registration Number	0978400
Registration Date	July 10, 2012
Owner	(REGISTRANT) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Lisa W. Rosaya
Prior Registrations	3029206;3258230;3277205;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)-IN PART
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE
Distinctiveness	As to "1818".

Limitation Statement

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#) | [NEXT LIST](#)
[FIRST DOC](#) | [PREV DOC](#) | [NEXT DOC](#) | [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 6 out of 90

(Use the "Back" button of the Internet Browser to return to

TESS)


Word Mark
BROOKS BROTHERS 1818 RED FLEECE
Goods and Services

IC 003. US 001 004 006 050 051 052. G & S: After shave lotions; after-shave balms; after-shave creams; bath gel; bath lotion; bath soaps; bathing lotions; beauty lotions; body lotion; body sprays; cologne; eau de perfume; eau-de-toilette; face and body beauty creams; face and body lotions; fragrances for personal use; perfume; perfumes, aftershaves and colognes; scented body lotions and creams; scented body spray; shampoos; shaving balm; shaving cream; shaving gel; shaving preparations; shower and bath gel; skin cream. FIRST USE: 20140600. FIRST USE IN COMMERCE: 20140600

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

26.03.17 - Concentric ovals; Concentric ovals and ovals within ovals; Ovals within ovals; Ovals, concentric
 26.11.21 - Rectangles that are completely or partially shaded
 26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s)
 26.17.06 - Bands, diagonal; Bars, diagonal; Diagonal line(s), band(s) or bar(s); Lines, diagonal

Serial Number

86302730

Filing Date

June 6, 2014

Current Basis

1A

Original Filing Basis

1B

Published for Opposition

September 9, 2014

Registration Number

5341026

International Registration Number

1222649

Registration Date

November 21, 2017

Owner

(REGISTRANT) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE

ENFIELD CONNECTICUT 06082

**Attorney of
Record**

Lisa W. Rosaya

**Prior
Registrations**

1908540;4012556;4105866;AND OTHERS

**Description of
Mark**

The color(s) red, gold, blue and white is/are claimed as a feature of the mark. The mark consists of a repeat striped rectangular drawing with the colors red, gold, blue, gold, blue, gold, red with a white oval device in the center with a red concentric oval within and featuring the text "**BROOKS BROTHERS**", the **Brooks** Brothers Golden Fleece logo, the numbers "1818" and the text "RED FLEECE", all in red.

Type of Mark

TRADEMARK

Register

PRINCIPAL-2(F)-IN PART

**Live/Dead
Indicator**

LIVE

Distinctiveness**Limitation**

as to "1818"

Statement[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[PREV LIST](#)[CURR LIST](#)[NEXT LIST](#)[FIRST DOC](#)[PREV DOC](#)[NEXT DOC](#)[LAST DOC](#)[| HOME |](#) [SITE INDEX |](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#) | [NEXT LIST](#)
[FIRST DOC](#) | [PREV DOC](#) | [NEXT DOC](#) | [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 49 out of 90

[TSDR](#)
[ASSIGN Status](#)
[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to TESS)



Word Mark

BROOKS BROTHERS BB COUNTRY CLUB

Goods and Services

IC 003. US 001 004 006 050 051 052. G & S: Fragrances, after shave balm, body creams and body wash. FIRST USE: 20030331. FIRST USE IN COMMERCE: 20030331

(CANCELLED) IC 018. US 001 002 003 022 041. G & S: [handbags, tote bags, backpacks, luggage, wallets, purses, duffle bags, all-purpose sport bags, billfolds, key cases, travel bags, overnight bags, umbrellas]. FIRST USE: 20030331. FIRST USE IN COMMERCE: 20030331

IC 025. US 022 039. G & S: shirts, tops, [sweaters,] jackets, pants, [bottoms, socks, hats and caps, shorts, coats,] underwear, [vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear,] trousers [, ties, pajamas, robes, gloves, belts, boots, beach wear, swimwear]. FIRST USE: 20030331. FIRST USE IN COMMERCE: 20030331

IC 028. US 022 023 038 050. G & S: golf accessories and golf equipment, namely, golf balls, golf bags, golf tees, and golf club covers. FIRST USE: 20030331. FIRST USE IN COMMERCE: 20030331

(CANCELLED) IC 035. US 100 101 102. G & S: [Retail mail order services and retail stores services and computerized online ordering and online retail store services via a computer network in the field of consumer goods, namely, clothing, luggage, wallets, cosmetics and jewelry]. FIRST USE: 20030331. FIRST USE IN COMMERCE: 20030331

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

09.01.04 - Bows, decorative; Ribbons, giftwrap (gift wrap); Ribbons, hair
 24.01.02 - Shields or crests with figurative elements contained therein or superimposed thereon
 24.01.03 - Shields or crests with letters, punctuation or inscriptions contained therein or superimposed thereon
 24.09.07 - Advertising, banners; Banners
 26.05.02 - Plain single line triangles; Triangles, plain single line
 26.05.25 - Triangles with one or more curved sides
 26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s)

26.17.04 - Bands, vertical; Bars, vertical; Lines, vertical; Vertical line(s), band(s) or bar(s)
 26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

Trademark ART-09.01 Textiles other than clothing
Search Facility ART-24.09 Flags, banners
Classification Code LETS-1 BB A single letter, multiples of a single letter or in combination with a design
 SHAPES-BAR-BANDS Designs with bar, bands or lines
 SHAPES-HERALDRY Marks with shields, crests, emblems, insignias, and crowns
 SHAPES-MISC Miscellaneous shaped designs
 SHAPES-TRIANGLES Triangular shaped designs and marks including incomplete triangles

Serial Number 77936030
Filing Date February 15, 2010
Current Basis 1A
Original Filing Basis 1A
Published for Opposition May 4, 2010
Change In Registration CHANGE IN REGISTRATION HAS OCCURRED
Registration Number 3821895
International Registration Number 1031707
Registration Date July 20, 2010
Owner (REGISTRANT) RETAIL BRAND ALLIANCE, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
 (LAST LISTED OWNER) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Lisa W. Rosaya
Prior Registrations 3029205;3029206;3277205;AND OTHERS
Description of Mark Color is not claimed as a feature of the mark. The mark consists of the terms "**BROOKS BROTHERS**" in a script font and a crest design containing the letters "BB" with a decorative partition between the two letters and a ribbon containing the terms "COUNTRY CLUB".
Type of Mark TRADEMARK. SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. PARTIAL SECT 8 (6-YR).
Live/Dead Indicator LIVE

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST
 FIRST DOC PREV DOC NEXT DOC LAST DOC

| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

 List At: OR to record:
Record 46 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
------	---------------	-------------	--

BROOKS BROTHERS COUNTRY CLUB

Word Mark BROOKS BROTHERS COUNTRY CLUB

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: [Bath soaps;]bathing lotions; cologne[; shower and bath gel]. FIRST USE: 20030331. FIRST USE IN COMMERCE: 20030331

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77524904

Filing Date July 17, 2008

Current Basis 1A

Original Filing Basis 1B

Published for Opposition December 9, 2008

Registration Number 4132169

International Registration Number 0976604; 0978392; 0988882

Registration Date April 24, 2012

Owner (REGISTRANT) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 3029206;3258230;3277205;AND OTHERS

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
-----------	----------	------------	-----------	-------------	-----------	--------	------	-----------	-----------	-----------

FIRST DOC	PREV DOC	NEXT DOC	LAST DOC
-----------	----------	----------	----------

 Please logout when you are done to release system resources allocated for you.

 List At: OR to record:
Record 39 out of 90**TSDR****ASSIGN Status****TTAB Status**

(Use the "Back" button of the Internet Browser to return to

TESS)

Typed Drawing

Word Mark**BROOKS BROTHERS COUNTRY CLUB****Goods and Services**

(CANCELLED) IC 018. US 001 002 003 022 041. G & S: [HANDBAGS, TOTE BAGS,] [BACKPACKS, LUGGAGE, WALLETS,] [PURSES,] [KEY CASES, BRIEF CASES, DUFFLE BAGS, ALL-PURPOSE SPORT BAGS, BUSINESS CARD CASES, CREDIT CARD CASES, BRIEFCASE-TYPE PORTFOLIOS, BILLFOLDS, ATTACHE CASES, KEY CASES, PASSPORT CASES, SUIT BAGS, WAIST AND FANNY PACKS; TRUNKS, TRAVEL BAGS, HAT BOXES FOR TRAVEL, LUGGAGE TAGS, OVERNIGHT BAGS AND CASES; COSMETIC; TOILETRY AND VANITY CASES SOLD EMPTY;] [UMBRELLAS,] [CANES AND WALKING STICKS]. FIRST USE: 20040400. FIRST USE IN COMMERCE: 20040400

IC 025. US 022 039. G & S: CLOTHING, NAMELY, SHIRTS, TOPS, SWEATERS, JACKETS, PANTS, [SUITS,] BOTTOMS, [SOCKS,] HATS AND CAPS; [SHOES;] SHORTS, COATS, [NECKTIES,] UNDERWEAR, VESTS, [ROBES, HOSIERY,] SKIRTS, DRESSES, LOUNGEWEAR, [SCARVES, RAINWEAR, TROUSERS, ASCOTS, TIES, OUTER SHIRTS INCLUDING EVENING DRESS,] POLO AND SPORTS SHIRTS, [COLLARS, PAJAMAS, ROBES, SMOKING JACKETS, DRESSING GOWNS, MUFFLERS,] GLOVES, [HOSE,] BELTS, [SUSPENDERS, GARTERS, BOOTS, SLIPPERS, SHOES, OVERSHOES, BEACH WEAR,] SWIMWEAR, [FORMAL WEAR, NAMELY, JACKETS, PANTS, SUITS, SHIRTS, SHOES, CUMMERBUNDS, TIES, SUSPENDERS AND GOWNS]. FIRST USE: 20040400. FIRST USE IN COMMERCE: 20040400

IC 028. US 022 023 038 050. G & S: GOLF ACCESSORIES AND GOLF EQUIPMENT, NAMELY, GOLF BALLS, [GOLF CLUBS,] GOLF BAGS, [GOLF BALL WASHERS, NON-MOTORIZED GOLF CARTS,] GOLF TEES, AND GOLF CLUB COVERS. FIRST USE: 20040400. FIRST USE IN COMMERCE: 20040400

Mark Drawing Code

(1) TYPED DRAWING

Serial Number

78135283

Filing Date

June 12, 2002

Current Basis

1A

Original Filing Basis

1B

Published for Opposition

September 9, 2003

Change In Registration

CHANGE IN REGISTRATION HAS OCCURRED

Registration

2882928

Number**International****Registration Number** 0896664; 0983106; 1133327**Registration Date**

September 7, 2004

Owner

(REGISTRANT) Retail Brand Alliance, Inc. CORPORATION DELAWARE 100 Phoenix Avenue Enfield CONNECTICUT 06082

(LAST LISTED OWNER) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082**Assignment Recorded**

ASSIGNMENT RECORDED

Attorney of Record

Stephen L. Baker

Prior Registrations

0404625;0404683;0404792;0667458;AND OTHERS

Type of Mark TRADEMARK**Register** PRINCIPAL**Affidavit Text** SECT 15. SECT 8 (6-YR). PARTIAL SECTION 8(10-YR) 20140818.**Renewal** 1ST RENEWAL 20140818**Live/Dead Indicator**

LIVE

[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[PREV LIST](#)[CURR LIST](#)[NEXT LIST](#)[FIRST DOC](#)[PREV DOC](#)[NEXT DOC](#)[LAST DOC](#)[| HOME |](#) [SITE INDEX|](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#) | [NEXT LIST](#)
[FIRST DOC](#) | [PREV DOC](#) | [NEXT DOC](#) | [LAST DOC](#)

Please logout when you are done to release system resources allocated for you.

List At: OR to record:

Record 83 out of 90

[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)



Brooks Brothers

ESTABLISHED 1818

Word Mark **BROOKS BROTHERS ESTABLISHED 1818**
Goods and Services IC 022 024 026 027. US 042. G & S: [Motor Robes, Foot Muffs, Blankets, Napkins, and] Towels. FIRST USE: 19030113. USED IN ANOTHER FORM SINCE 1850 TO THE WORDS "**BROOK BROTHERS**" AND SINCE 1894 AS TO THE MARK AS SHOWN IN THE DRAWING. FIRST USE IN COMMERCE: 19030103
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 03.07.10 - Goats; Goats, sheep, rams; Lambs; Rams; Sheep
 09.01.04 - Bows, decorative; Ribbons, giftwrap (gift wrap); Ribbons, hair
Serial Number 71462304
Filing Date July 26, 1943
Current Basis 1A
Original Filing Basis 1A
Registration Number 0404792
Registration Date December 21, 1943
Owner (REGISTRANT) **Brooks** Brothers CORPORATION NEW YORK 346 Madison Avenue New York NEW YORK
 (LAST LISTED OWNER) **BROOKS BROTHERS GROUP, INC.** CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Lisa W. Rosaya

Prior 0103889;0103992

Registrations

Description of Mark The mark consists of the Golden Fleece logo above the terms **BROOKS** BROTHERS in a script font with the terms Established 1818 at the bottom.

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 12C. SECTION 8(10-YR) 20131214.

Renewal 4TH RENEWAL 20131214

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	Top	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#) | [NEXT LIST](#)
[FIRST DOC](#) | [PREV DOC](#) | [NEXT DOC](#) | [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: OR [Jump](#) to record:

Record 84 out of 90

[TSDR](#)
[ASSIGN Status](#)
[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to

TESS)



Brooks Brothers

ESTABLISHED 1818

Word Mark **BROOKS BROTHERS ESTABLISHED 1818**

Goods and Services IC 018. US 003. G & S: [Riding Crops and Whips, Polo Whips, Spur-Straps, Hound Collars and Couples Beagle Collars and Couples,] Suitcases, Trunks, Duffle Bags, Gladstone Bags, Attache Cases, Wallets and Key Purses, Pocketbooks, Portfolios, Overnight Bags, [Brief Cases, Utility Bags,] Toilet Kits, Wardrobe [Trunks, Collar Boxes Made of Leather, Cravat and Handkerchief Cases Made of Leather, Beach Bags and Bathing Suit Bags, Hat and Tie Boxes Made of Leather, Boot and Shoe Trunks, Jewel Cases Made of Leather, Cases for Playing Cards, and Empty Kits for Toilet Articles]. FIRST USE: 19030113. USED IN ANOTHER FORM SINCE 1850 AS TO THE WORDS "BROOKS BROTHER" AND SINCE 1894 AS TO THE MARK AS SHOWN IN THE DRAWING. FIRST USE IN COMMERCE: 19030113

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 03.07.10 - Goats; Goats, sheep, rams; Lambs; Rams; Sheep
09.01.04 - Bows, decorative; Ribbons, giftwrap (gift wrap); Ribbons, hair

Serial Number 71462299

Filing Date July 26, 1943

Current Basis 1A

Original Filing Basis 1A

Registration Number 0404683

Registration Date December 14, 1943

Owner (REGISTRANT) Brooks Brothers CORPORATION NEW YORK 346 Madison Avenue New York NEW YORK 10017

(LAST LISTED OWNER) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0103889;0103992

Description of Mark The mark consists of the Golden Fleece logo above the terms **BROOKS** BROTHERS in a script font with the terms Established 1818 at the bottom.

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 12C. SECT 15. SECTION 8(10-YR) 20131214.

Renewal 4TH RENEWAL 20131214

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#) | [NEXT LIST](#)
[FIRST DOC](#) | [PREV DOC](#) | [NEXT DOC](#) | [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: OR [Jump](#) to record:

Record 86 out of 90

[TSDR](#)
[ASSIGN Status](#)
[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to TESS)



Brooks Brothers

ESTABLISHED 1818

Word Mark BROOKS BROTHERS ESTABLISHED 1818

Goods and Services IC 006 013 014 015 016 018 020 021 022 034. US 002. G & S: [Sandwich Boxes,] [Boxes for Hunting Tools, Cardboard Collar Boxes Sold Empty, Cravat Cases and Handkerchief Cases Made of Cardboard and Covered with Paper or Fabric and Sold Empty, Hat Boxes Made of Cardboard and Covered with Paper or Fabric and Sold Empty, Tie Cases Made of Cardboard and Covered with Paper or Fabric and Sold Empty, Sewing Baskets, Garden Baskets,] Shoe Bags, [Tea Baskets, Jewel Cases Made with Cardboard and Covered with Paper or Fabric and Sold Empty,] Garment Bags [, Jacketed Vacuum Bottles and Lunch-Boxes, Trays Made of Wood or Cardboard Covered with Paper and Paper Cups]. FIRST USE: 19030113. USED IN ANOTHER FORM SINCE 1850 TO THE WORDS "BROOK BROTHERS" AND SINCE 1849 AS TO THE MARK AS SHOWN IN THE DRAWING. FIRST USE IN COMMERCE: 19030113

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design 03.07.10 - Goats; Goats, sheep, rams; Lambs; Rams; Sheep

Search Code 09.01.04 - Bows, decorative; Ribbons, giftwrap (gift wrap); Ribbons, hair

Serial Number 71462298

Filing Date July 26, 1943

Current Basis 1A

Original Filing Basis 1A

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 0404790

Registration Date December 21, 1943

Owner (REGISTRANT) **Brooks** Brothers CORPORATION NEW YORK 346 Madison Avenue New York NEW YORK
(LAST LISTED OWNER) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0103889;0103992

Description of Mark The mark consists of The mark consists of the Golden Fleece logo above the terms **BROOKS** BROTHERS in a script font with the terms Established 1818 at the bottom.

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 12C. SECT 15. SECTION 8(10-YR) 20131230.

Renewal 4TH RENEWAL 20131230

Live/Dead Indicator LIVE

[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[PREV LIST](#)[CURR LIST](#)[NEXT LIST](#)[FIRST DOC](#)[PREV DOC](#)[NEXT DOC](#)[LAST DOC](#)[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#) | [NEXT LIST](#)
[FIRST DOC](#) | [PREV DOC](#) | [NEXT DOC](#) | [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: [OR](#) [Jump](#) to record:

Record 82 out of 90

[TSDR](#)
[ASSIGN Status](#)
[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to TESS)



Brooks Brothers

ESTABLISHED 1818

Word Mark **BROOKS BROTHERS ESTABLISHED 1818**

Goods and Services IC 018. US 041. G & S: Walking Sticks and Canes, Umbrellas, Shooting Seats, Usable as Walking Sticks and Cane Umbrellas. FIRST USE: 19030113. USED IN ANOTHER FORM SINCE 1850 AS TO THE WORDS "BROOKS BROTHERS", AND SINCE 1894 AS TO THE MARK AS SHOWN IN THE DRAWING. FIRST USE IN COMMERCE: 19030113

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design 03.07.10 - Goats; Goats, sheep, rams; Lambs; Rams; Sheep

Search Code 09.01.04 - Bows, decorative; Ribbons, giftwrap (gift wrap); Ribbons, hair

Serial Number 71462303

Filing Date July 26, 1943

Current Basis 1A

Original Filing Basis 1A

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 0404625

Registration Date December 7, 1943

Owner (REGISTRANT) **Brooks Brothers CORPORATION** NEW YORK 346 Madison Avenue New York NEW YORK 10017

(LAST LISTED OWNER) **BROOKS BROTHERS GROUP, INC. CORPORATION** DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0103889;0103992

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 12C. SECT 15. SECTION 8(10-YR) 20131214.

Renewal 4TH RENEWAL 20131214

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	Top	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#) [NEXT LIST](#)
[FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: OR [Jump](#) to record:

Record 12 out of 90

[TSDR](#)
[ASSIGN Status](#)
[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to

TESS)



COLLEGIATE COLLECTION

Word Mark BROOKS BROTHERS ESTABLISHED 1818 COLLEGIATE COLLECTION

Goods and Services IC 025. US 022 039. G & S: Shirts; Sweaters; Ties; Tops. FIRST USE: 20110800. FIRST USE IN COMMERCE: 20110800

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 03.07.10 - Goats; Goats, sheep, rams; Lambs; Rams; Sheep
09.01.04 - Bows, decorative; Ribbons, giftwrap (gift wrap); Ribbons, hair
26.01.02 - Circles, plain single line; Plain single line circles
26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles
26.11.02 - Plain single line rectangles; Rectangles (single line)

Serial Number 86264393

Filing Date April 28, 2014

Current Basis 1A

Original Filing Basis 1A

Published for Opposition September 2, 2014

Registration Number 4641284

Registration Date November 18, 2014

Owner (REGISTRANT) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Attorney of Record Lisa W. Rosaya

Prior Registrations 0404790;1771690;4171950;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COLLEGIATE COLLECTION" AND "ESTABLISHED 1818" APART FROM THE MARK AS SHOWN

Description of Mark Color is not claimed as a feature of the mark. The mark consists of a circle design containing the terms "**BROOKS BROTHERS**", beneath which is the Golden Fleece design, beneath which are the terms "ESTABLISHED 1818". Beneath the circle design are the terms "COLLEGIATE COLLECTION".

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 31 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
----------------------	-------------------------------	-----------------------------	--

**BROOKS BROTHERS FACTORY
STORE****Word Mark** **BROOKS BROTHERS FACTORY STORE**

Goods and Services IC 035. US 100 101 102. G & S: Retail stores featuring clothing for men, women and children, sporting goods, eyewear, fragrance, body lotions, housewares, personal accessories and luggage. FIRST USE: 19910000. FIRST USE IN COMMERCE: 19910000

**Standard
Characters
Claimed**

**Mark Drawing
Code** (4) STANDARD CHARACTER MARK

Serial Number 78914606

Filing Date June 22, 2006

Current Basis 1A

**Original Filing
Basis** 1A

**Published for
Opposition** December 26, 2006

**Registration
Number** 3218098

**International
Registration
Number** 0903987

**Registration
Date** March 13, 2007

Owner (REGISTRANT) RETAIL BRAND ALLIANCE, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

(LAST LISTED OWNER) **BROOKS BROTHERS GROUP, INC.** CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0404792;3029206;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FACTORY STORE" APART FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20170327.

Renewal 1ST RENEWAL 20170327

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[Logout](#) Please logout when you are done to release system resources allocated for you.

 Start List At: OR Jump to record:
Record 13 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
----------------------	-------------------------------	-----------------------------	--

BROOKS BROTHERS FLATIRON SHOP

Word Mark	BROOKS BROTHERS FLATIRON SHOP
Goods and Services	IC 035. US 100 101 102. G & S: Retail store services featuring clothing, footwear, eyewear, fragrances, leather goods, bags, and personal accessories. FIRST USE: 20111112. FIRST USE IN COMMERCE: 20111112
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85247752
Filing Date	February 21, 2011
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	May 31, 2011
Registration Number	4122925
International Registration Number	1121316
Registration Date	April 3, 2012
Owner	(REGISTRANT) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment Recorded	ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 1835478;1835798;3029206;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SHOP" APART FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

 List At: OR to record:
Record 50 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
------	---------------	-------------	--

BROOKS BROTHERS FLEECE**Word Mark** **BROOKS BROTHERS FLEECE**

Goods and Services IC 025. US 022 039. G & S: Clothing, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ties, polo shirts, pajamas, gloves, belts, boots, slippers, beach wear, swimwear. FIRST USE: 20100801. FIRST USE IN COMMERCE: 20100801

IC 035. US 100 101 102. G & S: Retail store services, online retail store services and mail order catalog services featuring clothing, sporting goods, eyewear, fragrance, housewares, personal accessories and luggage. FIRST USE: 20110226. FIRST USE IN COMMERCE: 20110226

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77907226

Filing Date January 7, 2010

Current Basis 1A

Original Filing Basis 1B

Published for Opposition May 4, 2010

Registration Number 4289342

Registration Date February 12, 2013

Owner (REGISTRANT) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE
ENFIELD CONNECTICUT 06082

**Assignment
Recorded** ASSIGNMENT RECORDED

**Attorney of
Record** Lisa W. Rosaya

**Prior
Registrations** 3029064;3029206;3258230;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FLEECE" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

**Live/Dead
Indicator** LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 54 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
----------------------	-------------------------------	-----------------------------	--

BROOKS BROTHERS MADISON

Word Mark	BROOKS BROTHERS MADISON
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: Fragrances for personal use. FIRST USE: 20101100. FIRST USE IN COMMERCE: 20101100
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77348241
Filing Date	December 10, 2007
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	November 10, 2009
Registration Number	4214156
International Registration Number	1089360
Registration Date	September 25, 2012
Owner	(REGISTRANT) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Lisa W. Rosaya
Prior Registrations	3029206;3258230;3277205;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 63 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
------	---------------	-------------	--

BROOKS BROTHERS MAKERS

Word Mark BROOKS BROTHERS MAKERS

Goods and Services (CANCELLED) IC 018. US 001 002 003 022 041. G & S: [Handbags, tote bags, backpacks, luggage, wallets, purses, key cases, briefcases, duffel bags, all-purpose sport bags, business card cases, credit card cases; briefcase-type portfolios, billfolds, attache cases and passport cases]. FIRST USE: 19430000. FIRST USE IN COMMERCE: 19430000

IC 025. US 022 039. G & S: Clothing, namely, shirts, tops, [sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts including evening, dress, polo, and sports shirts, collars, pajamas, robes, smoking jackets, dressing gowns, mufflers, gloves, handkerchiefs, hose, belts, suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear and formal wear, namely jackets, pants, suits, shirts, shoes, cummerbunds,] ties, [suspenders and gowns]. FIRST USE: 19430000. FIRST USE IN COMMERCE: 19430000

Mark Drawing Code (1) TYPED DRAWING

Serial Number 76249859

Filing Date May 2, 2001

Current Basis 1A

Original Filing Basis 1A

Published for Opposition July 23, 2002

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 2634532

Registration October 15, 2002

Date

Owner (REGISTRANT) **Brooks** Brothers, Inc. CORPORATION DELAWARE 346 Madison Avenue New York NEW YORK 10016

(LAST LISTED OWNER) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0404625;0404683;0404792;0667458;AND OTHERS

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. PARTIAL SECT 8 (6-YR). SECTION 8(10-YR) 20121107.

Renewal 1ST RENEWAL 20121107

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#) [NEXT LIST](#)
[FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: OR [Jump](#) to record:

Record 55 out of 90

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

BROOKS BROTHERS NEW YORK

Word Mark	BROOKS BROTHERS NEW YORK
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: Fragrances for personal use; After-shave lotions; Body cream. FIRST USE: 20081100. FIRST USE IN COMMERCE: 20081100 (CANCELLED) IC 004. US 001 006 015. G & S: [Candles]. FIRST USE: 20081100. FIRST USE IN COMMERCE: 20081100
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77443939
Filing Date	April 9, 2008
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	July 8, 2008
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED
Registration Number	4042389
Registration Date	October 18, 2011
Owner	(REGISTRANT) Retail Brand Alliance, Inc. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082 (LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 3029206;3258230;3277205;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NEW YORK" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. PARTIAL SECT 8 (6-YR).

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DICT](#)
[SEARCH OG](#)
[BOTTOM](#)
[HELP](#)
[PREV LIST](#)
[CURR LIST](#)
[NEXT LIST](#)
[FIRST DOC](#)
[PREV DOC](#)
[NEXT DOC](#)
[LAST DOC](#)
[Logout](#) Please logout when you are done to release system resources allocated for you.

 List At: OR to record:
Record 16 out of 90
[TSDR](#)
[ASSIGN Status](#)
[TTAB Status](#)
(Use the "Back" button of the Internet Browser to return to TESS)
BROOKS BROTHERS RED FLEECE**Word Mark** **BROOKS BROTHERS RED FLEECE****Goods and Services** IC 003. US 001 004 006 050 051 052. G & S: Shampoos; Shower and bath gel, Bath soaps, Eau-de-toilette. FIRST USE: 20140600. FIRST USE IN COMMERCE: 20140600

IC 014. US 002 027 028 050. G & S: Jewelry; Tie clips; Watches. FIRST USE: 20150600. FIRST USE IN COMMERCE: 20150600

IC 018. US 001 002 003 022 041. G & S: All purpose sport bags; All-purpose athletic bags; All-purpose carrying bags, backpacks, attaché cases, briefcases, wallets, handbags, messenger bags and tote bags. FIRST USE: 20160100. FIRST USE IN COMMERCE: 20160100

IC 025. US 022 039. G & S: Belts, caps, gloves, hats, hosiery, scarves, socks; bathing suits; blouses; coats; dresses; jackets; loungewear; neckties; pants; raincoats; rainwear; shirts; shorts; skirts; suits; sweat pants; sweaters; sweatshirts; swim suits; swimwear; ties; tops; trousers; vests. FIRST USE: 20131100. FIRST USE IN COMMERCE: 20131100

Standard Characters Claimed**Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 85859593**Filing Date** February 25, 2013**Current Basis** 1A**Original Filing Basis** 1B**Published for Opposition** January 21, 2014

Registration Number 5078203

Registration Date November 8, 2016

Owner (REGISTRANT) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE
ENFIELD CONNECTICUT 06082

Attorney of Record Lisa W. Rosaya

Prior Registrations 0404790;1908540;3029206;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RED FLEECE" FOR INTERNATIONAL CLASSES 18
& 25 APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

List At:

OR

to record:

Record 8 out of 90

TSDR	ASSIGN Status	TTAB Status
----------------------	-------------------------------	-----------------------------

 (Use the "Back" button of the Internet Browser to return to TESS)
BROOKS BROTHERS RED FLEECE**Word Mark** **BROOKS BROTHERS RED FLEECE**

Goods and Services IC 035. US 100 101 102. G & S: Mail order services featuring fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; On-line retail store services featuring fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; Retail store services featuring fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment. FIRST USE: 20131100. FIRST USE IN COMMERCE: 20131100

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86121225

Filing Date November 18, 2013

Current Basis 1A

Original Filing Basis 1B

Published for Opposition April 29, 2014

Registration Number 5124632

Registration Date January 17, 2017

Owner (REGISTRANT) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE
ENFIELD CONNECTICUT 06082

Attorney of Record Lisa W. Rosaya

Prior Registrations 1908540;4012556;4105866;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RED FLEECE" APART FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[PREV LIST](#)[CURR LIST](#)[NEXT LIST](#)[FIRST DOC](#)[PREV DOC](#)[NEXT DOC](#)[LAST DOC](#)[| HOME |](#) [SITE INDEX |](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

 List At: to record:
Record 15 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
------	---------------	-------------	--

BROOKS BROTHERS THE ORIGINAL AMERICAN BRAND

Word Mark BROOKS BROTHERS THE ORIGINAL AMERICAN BRAND

Goods and Services IC 035. US 100 101 102. G & S: Mail order services featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; On-line retail store services featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; Retail store services featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; The bringing together, for the benefit of others, of a variety of goods, enabling customers to conveniently view and purchase those goods in the field of Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment; The bringing together, for the benefit of others, of a variety of goods and services, enabling customers to conveniently view and purchase those goods and services from an Internet web site particularly specializing in the marketing of the sale of goods and services of others; Wholesale distributorships featuring Fragrances, body lotions, housewares, eyewear, jewelry, watches, leather goods, personal accessories, bags, luggage, clothing, footwear, hats, furniture, pillows, tableware, games, sporting equipment. FIRST USE: 20170106. FIRST USE IN COMMERCE: 20170106

Standard Characters Claimed**Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 85949984**Filing Date** June 4, 2013**Current Basis** 1A**Original Filing Basis** 1B**Published for Opposition** November 12, 2013**Registration Number** 5161322

**International
Registration
Number** 1181803

**Registration
Date** March 14, 2017

Owner (REGISTRANT) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE
ENFIELD CONNECTICUT 06082

**Attorney of
Record** Lisa W. Rosaya

**Prior
Registrations** 0404790;3029206;3218098;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "THE ORIGINAL AMERICAN BRAND" APART FROM
THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

**Live/Dead
Indicator** LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

 Please logout when you are done to release system resources allocated for you.

 List At: to record:
Record 27 out of 90

TSDR	ASSIGN Status	TTAB Status	(Use the "Back" button of the Internet Browser to return to TESS)
----------------------	-------------------------------	-----------------------------	--

**BROOKS BROTHERS
WOMEN****Word Mark
Goods and
Services****BROOKS BROTHERS WOMEN**

IC 035. US 100 101 102. G & S: [Retail mail order services and] retail stores services [and computerized online ordering and retail services via a computer network] in the field of consumer goods and services, namely, clothing, [fabrics, housewares,] jewelry, leather goods, luggage and handbags, cosmetics [, paper goods and printed matter]. FIRST USE: 19980911. FIRST USE IN COMMERCE: 19980911

**Standard
Characters
Claimed****Mark Drawing
Code**

(4) STANDARD CHARACTER MARK

**Trademark
Search Facility
Classification
Code**

SHAPES-MISC Miscellaneous shaped designs

Serial Number

78979708

Filing Date

September 10, 2004

Current Basis

1A

**Original Filing
Basis**

1B

**Published for
Opposition**

October 25, 2005

**Registration
Number**

3403721

Registration Date

March 25, 2008

Owner

(REGISTRANT) Retail Brand Alliance, Inc. CORPORATION DELAWARE 100 Phoenix Avenue Enfield CONNECTICUT 06082

(LAST LISTED OWNER) **BROOKS** BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "women" APART FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20180326.

Renewal 1ST RENEWAL 20180326

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TSDR](#)[ASSIGN Status](#)[TTAB Status](#)

(Use the "Back" button of the Internet Browser to return to

TESS)

BROOKS BUYS**Word Mark** BROOKS BUYS

Goods and Services IC 035. US 100 101 102. G & S: Retail stores services and computerized online ordering and retail services via a computer network in the field of consumer goods, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps, shoes, shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, [outer shirts including evening, dress, polo, and sports shirts, collars,] pajamas, [robes, smoking jackets, dressing gowns, mufflers,] gloves, handkerchiefs, [hose,] belts [suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear, formal wear, handbags, tote bags, backpacks, luggage, wallets, purses, key cases, brief cases, duffle bags, all-purpose sport bags, business card cases, credit card cases, briefcase-type portfolios, billfolds, attaché cases, key cases, passport cases, suit bags, waist and fanny packs, trunks, travel bags, hat boxes for travel, key fobs, luggage tags, overnight bags and cases, cosmetic, toiletry and vanity cases sold empty, umbrellas, canes, and walking sticks, cosmetics and jewelry, golf accessories, namely, golf equipment including golf balls, golf clubs, golf bags, golf shoes, golf ball washers, golf carts, golf tees, and golf club covers]. FIRST USE: 20010900. FIRST USE IN COMMERCE: 20010900

Standard Characters Claimed**Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 78229743**Filing Date** March 25, 2003**Current Basis** 1A**Original Filing Basis** 1A**Published for Opposition** July 20, 2004**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED**Registration Number** 2893198**Registration Date** October 12, 2004**Owner** (REGISTRANT) RETAIL BRAND ALLIANCE, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

(LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior Registrations 0667458;1835798;2523247

Type of Mark SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20131017.

Renewal 1ST RENEWAL 20131017

Live/Dead Indicator LIVE

[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)**BROOKS STRETCH**

Word Mark BROOKS STRETCH

Goods and Services IC 025. US 022 039. G & S: Clothing, namely, shirts, pants, [shorts, skirts, sweaters,] jackets, [shoes, socks, ties, hats, overcoats, dresses, underwear, hosiery, scarves, blouses, swimwear,] suits, [loungewear, caps, gloves, pajamas, ascots, trousers, raincoats, parkas, vests, polo and sport shirts, belts, suspenders, boots, slippers, sport coats, dress shirts, formal wear, namely jackets, pants, suits, shirts, shoes, cummerbunds, ties, suspenders and gowns and robes]. FIRST USE: 19990300. FIRST USE IN COMMERCE: 19990300

Mark Drawing Code (1) TYPED DRAWING

Serial Number 75806140

Filing Date September 22, 1999

Current Basis 1A

Original Filing Basis 1B

Published for Opposition October 31, 2000

Registration Number 2498929

Registration Date October 16, 2001

Owner (REGISTRANT) Brooks Brothers, Inc. CORPORATION DELAWARE 346 Madison Avenue New York NEW YORK 10017

(LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Prior 0667458;1354158;1432985;2185431;AND OTHERS

Registrations

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STRETCH" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20111018.

Renewal 1ST RENEWAL 20111018

**Live/Dead
Indicator** LIVE

[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)**Typed Drawing****Word Mark** BROOKSBROTHERS.COM**Goods and Services** IC 035. US 100 101 102. G & S: Retail store services, mail order services and computerized on-line retail services via a computer network featuring a wide variety of consumer goods; computerized on-line ordering services. FIRST USE: 20000800. FIRST USE IN COMMERCE: 20000800**Mark Drawing Code** (1) TYPED DRAWING**Serial Number** 78053282**Filing Date** March 15, 2001**Current Basis** 1A**Original Filing Basis** 1A**Published for Opposition** July 2, 2002**Registration Number** 2625045**Registration Date** September 24, 2002**Owner** (REGISTRANT) Brooks Brothers, Inc. CORPORATION DELAWARE 346 Madison Avenue New York NEW YORK 10017

(LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED**Attorney of Record** Lisa W. Rosaya**Type of Mark** SERVICE MARK**Register** PRINCIPAL**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20121003.**Renewal** 1ST RENEWAL 20121003**Live/Dead** LIVE

Indicator

TESS HOME

NEW USER

STRUCTURED

FREE FORM

BROWSE DICT

SEARCH OG

TOP

HELP

| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

BROOKSCOOL

Word Mark	BROOKSCOOL
Goods and Services	IC 025. US 022 039. G & S: Jackets; Pants; Shirts; Suits. FIRST USE: 20030300. FIRST USE IN COMMERCE: 20030300
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85463944
Filing Date	November 3, 2011
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	February 28, 2012
Registration Number	4142789
Registration Date	May 15, 2012
Owner	(REGISTRANT) Brooks Brothers Group, Inc. CORPORATION DELAWARE 100 Phoenix Avenue Enfield CONNECTICUT 06082
Attorney of Record	Lisa W. Rosaya
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [TOP](#) | [HELP](#)[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

BROOKSIE

Word Mark BROOKSIE

Goods and Services IC 028. US 022 023 038 050. G & S: Teddy bears. FIRST USE: 20091101. FIRST USE IN COMMERCE: 20091101

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77807759

Filing Date August 19, 2009

Current Basis 1A

Original Filing Basis 1B

Published for Opposition November 17, 2009

Registration Number 3861885

Registration Date October 12, 2010

Owner (REGISTRANT) RETAIL BRAND ALLIANCE, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

(LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa W. Rosaya

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)**Typed Drawing**

Word Mark	BROOKSSTORM
Goods and Services	IC 025. US 022 039. G & S: Clothing with water resistant properties namely jackets, coats and rainwear. FIRST USE: 20010900. FIRST USE IN COMMERCE: 20010900
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	78060954
Filing Date	April 28, 2001
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	March 5, 2002
Registration Number	3009280
International Registration Number	0894035
Registration Date	October 25, 2005
Owner	(REGISTRANT) RETAIL BRAND ALLIANCE, INC. CORPORATION DELAWARE 100 Phoenix Avenue Enfield CONNECTICUT 06082 (LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Lisa W. Rosaya
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20160102.
Renewal	1ST RENEWAL 20160102
Live/Dead Indicator	LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#)[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

BROOKSTWEED

Word Mark BROOKSTWEED

Goods and Services IC 025. US 022 039. G & S: clothing, namely, blazers, coats, jackets and vests. FIRST USE: 20170800. FIRST USE IN COMMERCE: 20170800

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86460507

Filing Date November 20, 2014

Current Basis 1A

Original Filing Basis 1B

Published for Opposition April 28, 2015

Registration Number 5386978

Registration Date January 23, 2018

Owner (REGISTRANT) Brooks Brothers Group, Inc. CORPORATION DELAWARE 100 Phoenix Avenue Enfield CONNECTICUT 06082

Attorney of Record Lisa W. Rosaya

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#)[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)**MY BROOKS REWARDS**

Word Mark MY BROOKS REWARDS

Goods and Services IC 035. US 100 101 102. G & S: Providing incentive award programs through issuance and processing of loyalty points for purchase of a company's goods and services. FIRST USE: 20171000. FIRST USE IN COMMERCE: 20171000

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 87545715

Filing Date July 27, 2017

Current Basis 1A

Original Filing Basis 1B

Published for Opposition December 26, 2017

Registration Number 5477176

Registration Date May 22, 2018

Owner (REGISTRANT) Brooks Brothers Group, Inc. CORPORATION DELAWARE 100 Phoenix Avenue Enfield CONNECTICUT 06082

Attorney of Record Lisa W. Rosaya

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "REWARDS" APART FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead LIVE

Indicator[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[| HOME |](#) [SITE INDEX|](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)



My Brooks Rewards

Word Mark MY BROOKS REWARDS
Goods and Services IC 035. US 100 101 102. G & S: Providing incentive award programs through issuance and processing of loyalty points for purchase of a company's goods and services. FIRST USE: 20171000. FIRST USE IN COMMERCE: 20171000
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 03.07.10 - Goats; Goats, sheep, rams; Lambs; Rams; Sheep
 03.07.26 - Costumed bovines, deer, antelopes, goats, sheep, pigs, cows, bulls, buffalo, moose
 09.01.04 - Bows, decorative; Ribbons, giftwrap (gift wrap); Ribbons, hair
Serial Number 87545720
Filing Date July 27, 2017
Current Basis 1A
Original Filing Basis 1B
Published for Opposition December 26, 2017
Registration Number 5477177
Registration Date May 22, 2018
Owner (REGISTRANT) Brooks Brothers Group, Inc. CORPORATION DELAWARE 100 Phoenix Avenue Enfield CONNECTICUT 06082
Attorney of Record Lisa W. Rosaya
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "REWARDS" APART FROM THE MARK AS SHOWN
Description of Mark Color is not claimed as a feature of the mark. The mark consists of the wording "MY BROOKS REWARDS" in stylized font, above which appears a design of a sheep suspended from a ring by a ribbon tied around its middle.

Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#)

[| HOME |](#) [SITE INDEX|](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 2 05:21:01 EDT 2018

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)**THE BROOKS CARD**

Word Mark	THE BROOKS CARD
Goods and Services	IC 036. US 100 101 102. G & S: Credit card services. FIRST USE: 19991100. FIRST USE IN COMMERCE: 19991100
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75843184
Filing Date	November 8, 1999
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	October 24, 2000
Registration Number	2498978
Registration Date	October 16, 2001
Owner	(REGISTRANT) Brooks Brothers, Inc. CORPORATION DELAWARE 346 Madison Avenue New York NEW YORK 10017 (LAST LISTED OWNER) BROOKS BROTHERS GROUP, INC. CORPORATION DELAWARE 100 PHOENIX AVENUE ENFIELD CONNECTICUT 06082
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Lisa W. Rosaya
Prior Registrations	1750407
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CARD" APART FROM THE MARK AS SHOWN
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20111129.

Renewal

1ST RENEWAL 20111129

**Live/Dead
Indicator**

LIVE

[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[| HOME |](#) [SITE INDEX|](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)

Exhibit G

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.
 PTO Form 1478 (Rev 09/2006)
 OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

Serial Number: 88742542

Filing Date: 12/30/2019

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	88742542
MARK INFORMATION	
*MARK	<u>BROOKS</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	BROOKS
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Brooks Brothers Group, Inc.
*STREET	100 Phoenix Avenue
*CITY	Enfield
*STATE (Required for U.S. applicants)	Connecticut
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	06082
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Delaware
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	009
*IDENTIFICATION	Eyewear, namely, eyeglasses, sunglasses, and cases therefor
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	014
*IDENTIFICATION	Jewelry
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	016
*IDENTIFICATION	Pens, stationery
FILING BASIS	SECTION 1(b)

INTERNATIONAL CLASS	018
*IDENTIFICATION	Handbags, tote bags, backpacks, luggage, wallets, purses, key cases, briefcases, duffel bags, all-purpose sport bags, business card cases, credit card cases; briefcase-type portfolios, billfolds, tie case, attaché cases; umbrellas; shoe bags for travel, garment bags for travel
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	020
*IDENTIFICATION	Pillows
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	021
*IDENTIFICATION	Plates, bowls, serving platters, mugs, cups, saucers
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	024
*IDENTIFICATION	Bed sheets, towels, pillow cases, blankets, fabrics for textile use
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	035
*IDENTIFICATION	Retail store services and online retail store services featuring clothing for men, women and children, sporting goods, eyewear, fragrance, body lotions, housewares, personal accessories and luggage.
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Lisa W. Rosaya
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	Baker & McKenzie LLP
STREET	452 Fifth Avenue
CITY	New York
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	10018
PHONE	212-626-4557
FAX	212 310 1659
EMAIL ADDRESS	nyctrademarks@bakermckenzie.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Pamela T. Church, Lindsey E. Utrata, Joshua Wolkoff, Gia Wakil, Alysha Preston and all other attorneys with the firm
CORRESPONDENCE INFORMATION	

NAME	Lisa W. Rosaya
FIRM NAME	Baker & McKenzie LLP
STREET	452 Fifth Avenue
CITY	New York
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	10018
PHONE	212-626-4557
FAX	212 310 1659
*EMAIL ADDRESS	nyctrademarks@bakermckenzie.com; lisa.rosaya@bakermckenzie.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	8
APPLICATION FOR REGISTRATION PER CLASS	275
*TOTAL FEE DUE	2200
*TOTAL FEE PAID	2200
SIGNATURE INFORMATION	
SIGNATURE	/lwr/
SIGNATORY'S NAME	Lisa W. Rosaya
SIGNATORY'S POSITION	Attorney of Record, Authorized Attorney, New York bar member
SIGNATORY'S PHONE NUMBER	212-626-4557
DATE SIGNED	12/30/2019

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1478 (Rev 09/2006)

OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

Serial Number: 88742542

Filing Date: 12/30/2019

To the Commissioner for Trademarks:

MARK: BROOKS (Standard Characters, see [mark](#))

The literal element of the mark consists of BROOKS. The mark consists of standard characters, without claim to any particular font style, size, or color.

The applicant, Brooks Brothers Group, Inc., a corporation of Delaware, having an address of

100 Phoenix Avenue
Enfield, Connecticut 06082
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Eyewear, namely, eyeglasses, sunglasses, and cases therefor

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 014: Jewelry

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 016: Pens, stationery

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 018: Handbags, tote bags, backpacks, luggage, wallets, purses, key cases, briefcases, duffel bags, all-purpose sport bags, business card cases, credit card cases; briefcase-type portfolios, billfolds, tie case, attaché cases; umbrellas; shoe bags for travel, garment bags for travel

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 020: Pillows

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 021: Plates, bowls, serving platters, mugs, cups, saucers

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 024: Bed sheets, towels, pillow cases, blankets, fabrics for textile use

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 035: Retail store services and online retail store services featuring clothing for men, women and children, sporting goods, eyewear, fragrance, body lotions, housewares, personal accessories and luggage.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

The applicant hereby appoints Lisa W. Rosaya. Other appointed attorneys are Pamela T. Church, Lindsey E. Utrata, Joshua Wolkoff, Gia Wakil,

Alysha Preston and all other attorneys with the firm. Lisa W. Rosaya of Baker & McKenzie LLP, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, and the attorney(s) is located at

452 Fifth Avenue
New York, New York 10018
United States
212-626-4557(phone)
212 310 1659(fax)
nyctrademarks@bakermckenzie.com (authorized).

Lisa W. Rosaya submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current Correspondence Information:

Lisa W. Rosaya
Baker & McKenzie LLP
452 Fifth Avenue
New York, New York 10018
212-626-4557(phone)
212 310 1659(fax)
nyctrademarks@bakermckenzie.com; lisa.rosaya@bakermckenzie.com (authorized).

Email Authorization: I authorize the USPTO to send email correspondence concerning the application to the applicant, the applicant's attorney, or the applicant's domestic representative at the email address provided in this application. I understand that a valid email address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in the loss of TEAS Reduced Fee status and a requirement to submit an additional processing fee of \$125 per international class of goods/services.

A fee payment in the amount of \$2200 has been submitted with the application, representing payment for 8 class(es).

Declaration

☒ **Basis:**

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
 - The applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the application; and
 - To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.
- ☒ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- ☒ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- ☒ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /lwr/ Date: 12/30/2019

Signatory's Name: Lisa W. Rosaya

Signatory's Position: Attorney of Record, Authorized Attorney, New York bar member

Payment Sale Number: 88742542

Payment Accounting Date: 12/30/2019

Serial Number: 88742542

Internet Transmission Date: Mon Dec 30 17:58:08 EST 2019

TEAS Stamp: USPTO/BAS-XXX.XXX.XXX.XXX-20191230175808

372675-88742542-7005a5b3af43a9b9abe64ed8

4c07b291aa9c94b99a017dff4d8e413f7b93a03

b-DA-58084218-20191230160631028486

BROOKS

Exhibit H

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1478 (Rev 09/2006)

OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

Serial Number: 88746602

Filing Date: 01/03/2020

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	88746602
MARK INFORMATION	
*MARK	BROOKS
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	BROOKS
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Brooks Brothers Group, Inc.
*STREET	100 Phoenix Avenue
*CITY	Enfield
*STATE (Required for U.S. applicants)	Connecticut
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	06082
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Delaware
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	028
*IDENTIFICATION	Christmas tree ornaments
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Lisa W. Rosaya
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	Baker & McKenzie LLP

STREET	452 Fifth Avenue
CITY	New York
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	10018
PHONE	212-626-4557
FAX	212 310 1659
EMAIL ADDRESS	nyctrademarks@bakermckenzie.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Pamela T. Church, Lindsey E. Utrata, Joshua Wolkoff, Gia Wakil, Alysha Preston and all other attorneys with the firm
CORRESPONDENCE INFORMATION	
NAME	Lisa W. Rosaya
FIRM NAME	Baker & McKenzie LLP
STREET	452 Fifth Avenue
CITY	New York
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	10018
PHONE	212-626-4557
FAX	212 310 1659
*EMAIL ADDRESS	nyctrademarks@bakermckenzie.com; lisa.rosaya@bakermckenzie.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	1
APPLICATION FOR REGISTRATION PER CLASS	275
*TOTAL FEE DUE	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
SIGNATURE	/lwr/
SIGNATORY'S NAME	Lisa W. Rosaya
SIGNATORY'S POSITION	Attorney of Record, Authorized Attorney, New York bar member
SIGNATORY'S PHONE NUMBER	212-626-4557
DATE SIGNED	01/03/2020

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1478 (Rev 09/2006)

OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

Serial Number: 88746602

Filing Date: 01/03/2020

To the Commissioner for Trademarks:

MARK: BROOKS (Standard Characters, see [mark](#))

The literal element of the mark consists of BROOKS. The mark consists of standard characters, without claim to any particular font style, size, or color.

The applicant, Brooks Brothers Group, Inc., a corporation of Delaware, having an address of
100 Phoenix Avenue
Enfield, Connecticut 06082
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 028: Christmas tree ornaments

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

The applicant hereby appoints Lisa W. Rosaya. Other appointed attorneys are Pamela T. Church, Lindsey E. Utrata, Joshua Wolkoff, Gia Wakil, Alysha Preston and all other attorneys with the firm. Lisa W. Rosaya of Baker & McKenzie LLP, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, and the attorney(s) is located at

452 Fifth Avenue
New York, New York 10018
United States
212-626-4557(phone)
212 310 1659(fax)
nyctrademarks@bakermckenzie.com (authorized).

Lisa W. Rosaya submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current Correspondence Information:

Lisa W. Rosaya
Baker & McKenzie LLP
452 Fifth Avenue
New York, New York 10018
212-626-4557(phone)
212 310 1659(fax)
nyctrademarks@bakermckenzie.com; lisa.rosaya@bakermckenzie.com (authorized).

Email Authorization: I authorize the USPTO to send email correspondence concerning the application to the applicant, the applicant's attorney, or the applicant's domestic representative at the email address provided in this application. I understand that a valid email address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in the loss of TEAS Reduced Fee status and a requirement to submit an additional processing fee of \$125 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

☒ **Basis:**

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
 - The applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the application; and
 - To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.
- ☒ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- ☒ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- ☒ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /lwr/ Date: 01/03/2020

Signatory's Name: Lisa W. Rosaya

Signatory's Position: Attorney of Record, Authorized Attorney, New York bar member

Payment Sale Number: 88746602

Payment Accounting Date: 01/03/2020

Serial Number: 88746602

Internet Transmission Date: Fri Jan 03 18:12:56 EST 2020

TEAS Stamp: USPTO/BAS-XXX.XXX.XXX.XXX-20200103181256

081187-88746602-70075c1b57396fed4ee11d01

f44f1b8c277be5b2090676e772d605e31e74781b

1b-DA-12550604-20200103175507052590

BROOKS

Exhibit I

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO. 78/042659		APPLICANT Brooks Brothers, Inc.		PAPER NO.
MARK BROOKSBOYS				
ADDRESS Stephen L. Baker Baker & Rannells P. O. Box 672 Somerville NJ 08876		ACTION NO. 01	MAILING DATE 06/04/01	ADDRESS: Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 www.uspto.gov If no fees are enclosed, the address should include the words "Box Responses - No Fee."
REF. NO.		Please provide in all correspondence: <ol style="list-style-type: none"> 1. Filing Date, serial number, mark and Applicant's name. 2. Mailing date of this Office action. 3. Examining Attorney's name and Law Office number. 4. Your telephone number and ZIP code. 		
FORM PTO-1525 (5-90)		U.S. DEPT. OF COMM. PAT. & TM OFFICE		

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT. For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.

RE: Serial Number: 78/042659 BROOKSBOYS

The assigned examining attorney has reviewed the referenced application and determined the following.

Likelihood of Confusion – Section 2(d)

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the applicant's mark, when used on or in connection with the identified goods, so resembles the marks in U.S. Registration Nos. 1161034, 1213324, 1319454, 1319455, 1336768, 1342765, 1360549, 1683840, and 1777883 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP section 1207. See the enclosed registrations.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

78/042659

-2-

The examining attorney is of the opinion that confusion is likely, due to the similarities of the marks and goods. The marks create a similar commercial impression, due to the fact that they all share the dominant element "BROOKS." The examining attorney must look at the marks in their entirety under Section 2(d). Nevertheless, one feature of a mark may be recognized as more significant in creating a commercial impression. Greater weight is given to that dominant feature in determining whether there is a likelihood of confusion. *In re National Data Corp.*, 224 USPQ 749 (Fed. Cir. 1985); *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 189 USPQ 693 (CCPA 1976). *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1988). Here, the sound, appearance, and commercial impression of the dominant element is identical in each case, resulting in a high degree of similarity between the marks. The goods travel in the same channels of trade because they are all clothing and related accessory items. They would be offered to the same or similar consumers in the same or similar forums in the marketplace, thereby adding to the likelihood of confusion.

Application Not Entitled to Register – Prior Pending Application

The examining attorney also encloses information regarding pending Application Serial No. 75932902. The filing date of the referenced application precedes the applicant's filing date. There may be a likelihood of confusion between the two marks under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). If the referenced application matures into a registration, the examining attorney may refuse registration in this case under Section 2(d). 37 C.F.R. Section 2.83; TMEP section 1208.01.

Response by Applicant

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

Informalities

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informalities.

Identification of Goods and Services Indefinite

The identification of goods and services is unacceptable as indefinite because the precise nature of the goods and services is unclear from the present wording. The applicant must amend the identification to specify the common commercial name of the goods and services. If there is no common commercial name, the applicant must describe the goods and services and their intended uses. TMEP sections 804 and 1301.05.

In particular, the identification of goods is indefinite because the applicant uses the wording "including." The identification of goods must be specific. The applicant should amend the identification to replace this wording with "namely." The applicant may amend to list only items that are within the scope of goods set forth in the identification. 37 C.F.R. Section 2.71(a); TMEP sections 804 and 804.08(c).

In the identification, the applicant must use the common commercial names for the goods, be as complete and specific as possible and avoid the use of indefinite words and phrases. If the applicant chooses to use indefinite terms, such as "accessories," "components," "devices,"

78/042659

-3-

"equipment," "materials," "parts," "systems" and "products," then those words must be followed by the word "namely" and the goods listed by their common commercial names. TMEP sections 804 and 804.08(c).

The applicant has listed the goods "robes" and "shoes" twice in the identification of goods and services. The duplicate listing has been omitted in the suggested identification below. If the duplication was intentional, and the applicant intended to specify particular types of robes and shoes, the applicant should amend the identification accordingly.

The applicant may adopt the following identification of goods and services, if accurate:

International Class 24

Handkerchiefs. [Applicant should note that paper handkerchiefs are classified in International Class 16.]

International Class 25

Clothing, namely, shirts; tops; sweaters; jackets; pants; suits; bottoms; socks; hats; caps; shoes; shorts; coats; neckties; underwear; vests; robes; hosiery; skirts; dresses; loungewear; scarves; rainwear; trousers; ascots; ties; _____[applicant must specify what is intended by the wording "outer shirts including evening, dress, polo, and sports shirts," using common commercial terms, e.g., outer shirts, namely, evening shirts; dress shirts; polo shirts; sports shirts]; collars; pajamas; smoking jackets; dressing gowns; mufflers; gloves; hose; belts; suspenders; garters; boots; slippers; overshoes; beach wear; swimwear; formal wear, namely, _____[applicant must specify the formal wear intended, using common commercial terms, e.g., tuxedos, cummerbunds (applicant should note that cuff-links and similar jewelry items are classified in International Class 14)]; golf shoes.

International Class 28

_____ [applicant must specify what is intended by the wording "golf accessories," using common commercial terms, e.g., divot repair tools, golf flags]; golf equipment, namely, golf balls; golf clubs; golf bags; golf ball washers; non-motorized golf carts [applicant should note that motorized golf carts are classified in International Class 12]; golf tees; golf club covers.

International Class 35

Retail store services and online retail services featuring _____ [applicant must specify what is intended by the wording "consumer goods and services," using common commercial terms, e.g., clothing, golf equipment].

TMEP Sections 804 and 1301.05.

Applicant may wish to refer to the on-line identification manual on the PTO homepage for acceptable names of goods and services. The web page address is:

<http://www.uspto.gov/web/office/tac/doc/gsmmanual/>

78/042659

-4-

Please note that, while an application may be amended to clarify or limit the identification, additions to the identification are not permitted. 37 C.F.R. Section 2.71(b); TMEP section 804.09. Therefore, the applicant may not amend to include any goods or services that are not within the scope of goods and services set forth in the present identification.

Additional Classes Required

If the applicant adopts the suggested amendment to the identification of goods and services, the applicant must amend the classification to International Classes 24, 25, 28, and 35. 37 C.F.R. Sections 2.32(a)(7) and 2.85; TMEP sections 805 and 1401.

Insufficient Fee

The application identifies goods and services that may be classified in several international classes. Therefore, the applicant must either: (1) restrict the application to the number of classes covered by the fee already paid, or (2) pay the required fee for each additional class. 37 C.F.R. Section 2.86(a)(2); TMEP sections 810.01 and 1113.01.

Effective January 10, 2000, the fee for filing a trademark application is \$325 for each class. This applies to classes added to pending applications as well as to new applications filed on or after that date. 37 C.F.R. Section 2.6(a)(1).

Requirements for Combined Application

If the applicant prosecutes this application as a combined, or multiple-class, application, the applicant must comply with each of the following.

- (1) The applicant must list the goods and services by international class with the classes listed in ascending numerical order. TMEP section 1113.01.
- (2) The applicant must submit a filing fee for each international class of goods or services not covered by the fee already paid. 37 C.F.R. Sections 2.6(a)(1) and 2.86(b); TMEP sections 810.01 and 1113.01. Effective January 10, 2000, the fee for filing a trademark application is \$325 for each class. This applies to classes added to pending applications as well as to new applications filed on or after that date.

Authorities and Response Guidelines

No set form is required for response to this Office action. The applicant must respond to each point raised. The applicant should simply set forth the required changes or statements and request that the Office enter them. The applicant must sign the response. In addition to the identifying information required at the beginning of this letter, the applicant should provide a telephone number to speed up further processing.

In all correspondence to the Patent and Trademark Office, the applicant should list the name and law office of the examining attorney, the serial number of this application, the mailing date of this Office action, and the applicant's telephone number.

The following authorities govern the processing of trademark and service mark applications: The Trademark Act, 15 U.S.C. Section 1051 *et seq.*, the Trademark Rules of Practice, 37 C.F.R. Part 2, and the *Trademark Manual of Examining Procedure* (TMEP).

78/042659

-5-

If the applicant or the applicant's attorney has any questions or needs assistance in responding to this Office action, please contact the assigned examining attorney.



Steven B. Powell, Trademark Attorney
Law Office 112
Tel.: (703) 308-9112 ext. 129
FAX: (703) 308-7186

SBP

*** User: spowell *** Serial Number: 73125926 *** 6/1/01 6:49:13 PM ***
[Typed Drawing]
Mark
BROOKS
Goods and Services
IC 025. US 039. G & S: Athletic Shoes. FIRST USE: 19140000. FIRST USE
IN COMMERCE: 19140000
Mark Drawing Code
(1) TYPED DRAWING
Serial Number
73125926
Filing Date
May 9, 1977
Publication for Opposition Date
October 25, 1977
Registration Number
1161034
Registration Date
July 14, 1981
Owner Name and Address
(REGISTRANT) Brooks Shoe Manufacturing Company, Inc. CORPORATION
PENNSYLVANIA 131 Factory St. Hanover PENNSYLVANIA 17331
(LAST LISTED OWNER) WOLVERINE WORLD WIDE, INC. CORPORATION ASSIGNE OF
PENNSYLVANIA 131 FACTORY STREET HANOVER PENNSYLVANIA 17331
Assignment Recorded
ASSIGNMENT RECORDED
Type of Mark
TRADEMARK
Register
PRINCIPAL
Affidavit Text
SECT 15. SECT 8 (6-YR).
Live Dead Indicator
LIVE

*** Search: 15 *** Document Number: 27 ***

*** User: spowell *** Serial Number: 73253544 *** 6/1/01 6:49:13 PM ***



Mark

BROOKS

Goods and Services

IC 025. US 039. G & S: Running Shoes. FIRST USE: 19780301. FIRST USE
IN COMMERCE: 19780301

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

261712

Serial Number

73253544

Filing Date

March 10, 1980

Publication for Opposition Date

May 25, 1982

Registration Number

1213324

Registration Date

October 19, 1982

Owner Name and Address

(REGISTRANT) Brooks Shoe Manufacturing Co., Inc. CORPORATION PENNSYLVANIA
131 Factory St. Hanover PENNSYLVANIA 17331

(LAST LISTED OWNER) WOLVERINE WORLD WIDE, INC. CORPORATION ASSIGNEE OF
DELAWARE 131 FACTORY STREET HANOVER PENNSYLVANIA 17331

Assignment Recorded

ASSIGNMENT RECORDED

Type of Mark

TRADEMARK

Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR).

Live Dead Indicator

*** Search: 15 *** Document Number: 26 ***

(cont)

*** User: spowell *** Serial Number: 73253544 ***

. LIVE

Attorney of Record
LLOYD A. HENEVELD

*** Search: 15 *** Document Number: 26 ***

*** User: spowell *** Serial Number: 73425027 *** 6/1/01 6:49:12 PM ***



Mark

BROOKS

Goods and Services

IC 025. US 039. G & S: Athletic Clothing-Namely, Shirts, Pants, Shorts, Warm-Up Suits, Caps and Hosiery. FIRST USE: 19770100. FIRST USE IN COMMERCE: 19770100

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

261103 261121 261712

Serial Number

73425027

Filing Date

May 9, 1983

Publication for Opposition Date

May 22, 1984

Registration Number

1319454

Registration Date

February 12, 1985

Owner Name and Address

(REGISTRANT) Wolverine World Wide, Inc. CORPORATION DELAWARE 9341 Courtland Dr., NE. Rockford MICHIGAN 49351

Assignment Recorded

ASSIGNMENT RECORDED

Prior Registration(s)

1161034;1213324

Type of Mark

TRADEMARK

Register

PRINCIPAL

Affidavit Text

*** Search: 15 *** Document Number: 23 ***

(cont)

*** User: spowell *** Serial Number: 73425027 ***

. . SECT 15. SECT 8 (6-YR).

Live Dead Indicator
LIVE

Attorney of Record
Richard C. Cooper

*** Search: 15 *** Document Number: 23 ***

*** User: spowell *** Serial Number: 73427688 *** 6/1/01 6:49:12 PM ***



Mark

BROOKS

Goods and Services

IC 025. US 022 039. G & S: Footwear-Namely, Athletic Shoes. FIRST USE:
19730500. FIRST USE IN COMMERCE: 19730500

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

090702 261712

Serial Number

73427688

Filing Date

May 26, 1983

Publication for Opposition Date

May 22, 1984

Registration Number

1319455

Registration Date

February 12, 1985

Owner Name and Address

(REGISTRANT) Wolverine World Wide, Inc. CORPORATION DELAWARE 9341
Courtland Dr., NE. Rockford MICHIGAN 49351

Assignment Recorded

ASSIGNMENT RECORDED

Prior Registration(s)

1161034;1213324

Type of Mark

TRADEMARK

Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR).

*** Search: 15 *** Document Number: 20 ***

(cont)

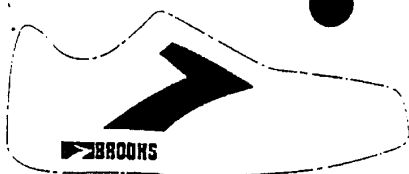
*** User: spowell *** Serial Number: 73427688 ***

Live Dead Indicator
LIVE

Attorney of Record
Peter P. Price

*** Search: 15 *** Document Number: 20 ***

*** User: spowell *** Serial Number: 73427681 *** 6/1/01 6:49:12 PM ***



Mark

BROOKS

Goods and Services

IC 025. US 022 039. G & S: Footwear-Namely, Athletic Shoes. FIRST USE:
19730500. FIRST USE IN COMMERCE: 19730500

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

090702 261121 261712

Serial Number

73427681

Filing Date

May 26, 1983

Publication for Opposition Date

March 12, 1985

Change in Registration

CHANGE IN REGISTRATION HAS OCCURRED

Registration Number

1336768

Registration Date

May 21, 1985

Owner Name and Address

(REGISTRANT) WOLVERINE WORLD WIDE, INC. CORPORATION DELAWARE 9341
COURTLAND DRIVE, N.E. ROCKFORD MICHIGAN 49351

Assignment Recorded

ASSIGNMENT RECORDED

Prior Registration(s)

1161034;1213324

Description of Mark

The dotted lines on the drawing are meant to show the position of the
mark only, and are not claimed as a feature of the mark.

Type of Mark

TRADEMARK

*** Search: 15 *** Document Number: 21 ***

(cont)

*** User: spowell *** Serial Number: 73427681 ***

: :

Register
PRINCIPAL

Affidavit Text
SECT 15. SECT 8 (6-YR)..

Live Dead Indicator
LIVE

Attorney of Record
LLOYD A. HENEVELD

*** Search: 15 *** Document Number: 21 ***

*** User: spowell *** Serial Number: 73425694 *** 6/1/01 6:49:12 PM ***

[Typed Drawing]

Mark

BROOKS

Goods and Services

IC 025. US 039. G & S; Leather Clothing-Namely, Jackets, Pants, Chaps,
Vests, Gloves and Caps. FIRST USE: 19640500. FIRST USE IN COMMERCE:
19640500

Mark Drawing Code

(1) TYPED DRAWING

Serial Number

73425694

Filing Date

May 13, 1983

Publication for Opposition Date

April 9, 1985

Registration Number

1342765

Registration Date

June 18, 1985

Owner Name and Address

(REGISTRANT) Brooks Leather Sportswear, Inc. CORPORATION MICHIGAN 14511
W. Eleven Mile Rd. Oak Park MICHIGAN 48237

Type of Mark

TRADEMARK

Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR).

Live Dead Indicator

LIVE

Attorney of Record

RICHARD D. GRAUER

*** Search: 15 *** Document Number: 22 ***

*** User: spowell *** Serial Number: 73425026 *** 6/1/01 6:49:13 PM ***



Mark

BROOKS

Goods and Services

IC 018. US 003. G & S: All Purpose Sports Bags. FIRST USE: 19770100.
FIRST USE IN COMMERCE: 19770100

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

261521 261525 261712

Serial Number

73425026

Filing Date

May 9, 1983

Publication for Opposition Date

April 16, 1985

Registration Number

1360549

Registration Date

September 17, 1985

Owner Name and Address

(REGISTRANT) Wolverine World Wide, Inc. CORPORATION DELAWARE 9341
Courtland Dr., NE. Rockford MICHIGAN 49351

Assignment Recorded

ASSIGNMENT RECORDED

Prior Registration(s)

1161034;1213324

Type of Mark

TRADEMARK

Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR).

Live Dead Indicator

LIVE

*** Search: 15 *** Document Number: 24 ***

(cont)

*** User: spowell *** Serial Number: 73425026 ***

.

Attorney of Record
LLOYD A. HENEVELD

*** Search: 15 *** Document Number: 24 ***

*** User: spowell *** Serial Number: 74046570 *** 6/1/01 6:49:11 PM ***

BROOKS

Mark

BROOKS

Goods and Services

IC 025. US 039. G & S: athletic clothing; namely, shirts, pants, jackets, hats, caps, shorts, tights and hosiery, and athletic footwear. FIRST USE: 19871117. FIRST USE IN COMMERCE: 19871117

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

261712

Serial Number

74046570

Filing Date

April 6, 1990

Publication for Opposition Date

January 28, 1992

Registration Number

1683840

Registration Date

April 21, 1992

Owner Name and Address

(REGISTRANT) Wolverine World Wide, Inc. CORPORATION DELAWARE 9341 Courtland Drive, N.E. Rockford MICHIGAN 49351

(LAST LISTED OWNER) BROOKS SPORTS, INC. CORPORATION ASSIGNEE OF WASHINGTON 11720 North Creek Parkway North Bothell WASHINGTON 98011

Assignment Recorded

ASSIGNMENT RECORDED

Prior Registration(s)

1161034;1213324;1319454;AND OTHERS

Type of Mark

TRADEMARK

Register

PRINCIPAL

Affidavit Text

*** Search: 15 *** Document Number: 9 ***

(cont)

*** User: spowell *** Serial Number: 74046570 ***

· SECT 15. SECT 8 (6-YR).

Live Dead Indicator
LIVE

Attorney of Record
ROBERT G WOOLSTON

*** Search: 15 *** Document Number: 9 ***

*** User: spowell *** Serial Number: 74280580 *** 6/1/01 6:49:11 PM ***

BROOKS

Mark

BROOKS

Goods and Services

IC 018. US 003. G & S: all purpose leather and non-leather sports bags, luggage, backpacks and tote bags. FIRST USE: 19880801. FIRST USE IN COMMERCE: 19880801

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

261712

Serial Number

74280580

Filing Date

June 2, 1992

Publication for Opposition Date

December 8, 1992

Registration Number

1777883

Registration Date

June 22, 1993

Owner Name and Address

(REGISTRANT) WOLVERINE WORLD WIDE, INC. CORPORATION DELAWARE 9341 Courtland Dr., N.E. Rockford MICHIGAN 49351

(LAST LISTED OWNER) BROOKS SPORTS, INC. CORPORATION Assignee of WASHINGTON 11720 North Creek Parkway North Bothell WASHINGTON 98011

Assignment Recorded

ASSIGNMENT RECORDED

Prior Registration(s)

1161034;1213324;1319453;1319454;1319455;1336768;1360549;1360550;1419241;1683840;AND OTHERS

Type of Mark

TRADEMARK

Register

PRINCIPAL

*** Search: 15 *** Document Number: 7 ***

(cont)

*** User: spowell *** Serial Number: 74280580 ***

Affidavit Text

SECT 15. SECT 8 (6-YR).

Live Dead Indicator

LIVE

Attorney of Record

ROBERT G WOOLSTON

*** Search: 15 *** Document Number: 7 ***

*** User: spowell *** Serial Number: 75932902 *** 6/2/01 1:48:59 PM ***



Mark

BROOKS

Goods and Services

IC 025. US 022 039. G & S: Clothing, namely shoes, boots, slippers, socks, footwear, shirts, pants, jackets, hats, caps, shorts, tights, hosiery, jogging suits, gloves, sweat pants, sweat suits, sweat shirts, warm up suits, headwear, head bands, T-shirts, skirts, leggings, unitards, wind resistant jackets, belts, rainwear, insoles, vests, waterproof jackets, waterproof pants, waterproof vests, sweaters, track suits, tank tops, turtle necks, trousers, jerseys, visors, and wrist bands

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

260303 260321

Serial Number

75932902

Filing Date

March 2, 2000

Filed ITU

FILED AS ITU

Publication for Opposition Date

December 19, 2000

Owner Name and Address

(APPLICANT) Brooks Sports, Inc. CORPORATION WASHINGTON 19820 North Creek Parkway Suite 200 Bothell WASHINGTON 98011

Description of Mark

The mark consists of the word "BROOKS" and a Chevron design within an oval.

Type of Mark

TRADEMARK

Register

PRINCIPAL

*** Search: 1 *** Document Number: 1 ***

(cont)

*** User: spowell *** Serial Number: 75932902 ***

Live Dead Indicator
LIVE

Attorney of Record
Robert G. Woolston

*** Search: 1 *** Document Number: 1 ***

Jan 10, 2002

78042659

10:33 AM

TYPED DRAWING

Serial Number

78042659

Examining Attorney

POWELL, STEVEN
LAW OFFICE 112

Filing Date

Jan 10, 2001

Original Filing Basis

1B

Current Filing Basis

1B

Amended Filing Basis

NONE

Status of Application

RESPONSE AFTER NON-FINAL ACTION - ENTERED

Type of Mark

TRADEMARK

Register

PRINCIPAL

Word Mark

BROOKSBOYS

OTHER MARK DATA

Color Drawing Indicator

NO COLOR DRAWING

Mark Drawing Code

(1) TYPED DRAWING

Pseudo-Mark

BROOKS BOYS

OWNER DATA

PARTY TYPE 10 - ENTRY NUMBER 001 - COMPOSED FLAG FALSE

ASSIGNMENT RECORDED: NO

Brooks Brothers, Inc.

Jan 10, 2002

78042659

10:33 AM

DELAWARE
CORPORATION
346 Madison Avenue
New York, NEW YORK 10017

GOODS AND SERVICES DATA

G & S: CLOTHING, NAMELY, SHIRTS, TOPS, SWEATERS, JACKETS, PANTS, SUITS, BOTTOMS, SOCKS, HATS AND CAPS; SHOES; SHORTS, COATS, NECKTIES, UNDERWEAR, VESTS, ROBES, HOSIERY, SKIRTS, DRESSES, LOUNGEWEAR, SCARVES, RAINWEAR, TROUSERS, ASCOTS, TIES, OUTER SHIRTS INCLUDING EVENING, DRESS, POLO, AND SPORTS SHIRTS, COLLARS, PAJAMAS, ROBES, SMOKING JACKETS, DRESSING GOWNS, MUFFLERS, GLOVES, HANDKERCHIEFS, HOSE, BELTS, SUSPENDERS, GARTERS, BOOTS, SLIPPERS, SHOES, OVERSHOES, BEACH WEAR, SWIMWEAR, FORMAL WEAR. IC 025. US 022 039

OTHER DATA

FOREIGN REGISTRATION DATA

CORRESPONDENCE DATA

Attorney of Record

Stephen L. Baker

Correspondence Address

Stephen L. Baker
Baker & Rannells
P. O. Box 672
Somerville NJ 08876

Automatic Last Update

NOT UPDATED

NE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK LAW OFFICE 112
SERIAL NUMBER: 78/042,659
MARK: BROOKSBOYS

APPLICANT: Brooks Brothers, Inc.
FILED: January 10, 2001

U.S. Patent & TMO/TM Mail Rpt. Dt. #57
12-07-2001

Assistant Commissioner
for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

JA

Attn: Steven B. Powell, Trademark Examining Attorney, Law Office 112

Responsive to the Office Action of June 4, 2001:

INFORMALITIES OF RECORD

Before dealing with the 2(d) rejection, Applicant will deal with the informalities of record. In the identification of goods/services, please delete all goods/services not falling into International Class 25. With regard to the Class 25 goods, please amend the same to read:

☐ Clothing, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts including evening, dress, polo, and sports shirts, collars, pajamas, robes, smoking jackets, dressing gowns, mufflers, gloves, handkerchiefs, hose, belts, suspenders, garters, boots, slippers, shoes, overshoes, beach wear, swimwear, formal wear in Class 25

While a number of issues were raised regarding the informalities of record, all have been resolved by Applicant limiting the application to a single class.

RECEIVED
JAN 10 2001
LAW OFFICE 112

TV

THE 2(d) REJECTION

Applicant has applied to register BROOKSBOYS for a wide variety of clothing. The application has been rejected on a series of BROOKS applications and registrations, all in the name of the successor-in-interest to Brooks Shoe Manufacturing company, Inc., with the exception of U.S. Reg. No. 1,342,765 for BROOKS for leather clothing dated April 9, 1985. Reconsideration is thought to be in order.

Applicant is Brooks Brothers, Inc., ("BBI"), the owner and operator of the world famous Brooks Brothers retail clothing outlets. BBI, on its own and through its predecessors-in-interest, has used BROOKS BROTHERS and BROOKS combination marks since at least as early as 1818. It is the owner of no less than 25 BROOKS BROTHERS registrations in the United States, as well as 25 BROOKS combination marks. The BROOKS combination marks (with the exception of BROOKS BROTHERS) are comprised of the word BROOKS with a descriptive term such as "AIRE", "BLEND", "CLOTH", "STRETCH", "SUEDE", "WEAVE", "BONUS" and the like. Several of BBI's BROOKS combination marks are registered, incontestable, and are for clothing or fabric in International Class 25 or fabric to be made into clothing in International Class 24. For example, U.S. Reg. No. 1,354,158 for BROOKS-BLEND is dated August 13, 1985. The registration, is incontestable and is for fabrics to be made into clothing. Insofar as BBI's more recent BROOKS combination marks are concerned, Applicant is the owner of 2,498,929 for BROOKS STRETCH for a wide variety of clothing. The BROOKS STRETCH registration issued on October 16, 2001.

The earliest of the Brooks Shoe registration (1,161,034) issued July 14, 1981. At that time, and in addition to BBI'S BROOKS BROTHERS registration, BBI was the

owner of the following BROOKS incontestable combination marks: Reg. Nos. 781,452 for BROOKSTWEED dated December 8, 1964 for men's and boy's clothing - namely sports jackets, top coats and over coats; 585,767 for BROOKSWEAVE dated February 16, 1954 for clothing; 1,007,938 for BROOKSGATE dated April 1, 1975 for clothing; 840,920 for BROOKSEASE dated December 19, 1967 for clothing.

Subsequent to the earliest Brooks Shoe registration, BBI was issued now incontestable Reg. Nos. 1,432,985 for BROOKS LISLE dated March 7, 1987 for fabric for use in the manufacturing of clothing; 1,291,279 for BROOKSUEDE dated August 21, 1984 for clothing; and 1,905,025 for BROOKSCLOTH SHIRT COLLECTION dated July 11, 1995 for shirts. More recently Applicant's applications for BROOKS BROTHERS PERFORMANCE, BROOKS BASICS and BROOKS JR. have been allowed while the subject application has been rejected.

BBI's BROOKS combination marks also issued both prior and subsequent to the issuance of Reg. No. 1,342,765 for BROOKS for leather clothing in the name of Brooks Leather sportswear, Inc. The BROOKS leather sportswear registration issued in 1985 over several of BBI'S incontestable BROOKS combination marks as well as over the registrations in the name of Brooks Shoe Manufacturing Co., Inc. and its successors-in-interest. In addition to BBI, Brooks Leather Sportswear, Inc. and the successors-in-interest to Brooks Shoe Manufacturing Co., Inc., there are in excess of 100 registrations and pending applications for BROOKS and BROOKS combination marks in Classes 24 and 25. For example, U.S. Reg. No. 2,229,999 issued March 9, 1999, for BROOKS for clothing, namely briefs and undergarments to Maxi Drug, Inc., a company unrelated to any of the prior registrants, including BBI, Brooks Leather Sportswear, Inc. and the

successors-in-interest to Brooks Shoe Manufacturing Co., inc. If BROOKS for undergarments is entitled to be registered over the BROOKS registrations cited by the Trademark Examining Attorney, then Applicant's BROOKS combination mark is entitled to at least be published.

In D. Brooks Limited v. Brooks Fashion Stores, Inc., 1 USPQ2d 1128 (DC COLO 1986), a Federal District Court in Colorado found BROOKS for women's apparel not to be confusingly similar to BROOKS FASHIONS for essentially the same goods. In reaching its decision, the Court noted that there were several other users of the BROOKS mark including Brooks Brothers (the Applicant herein), Donald Brooks, Bobbie Brooks, Stevie Brooks as well as the defendant Brooks Fashions. In its findings of fact, the Court noted that Brooks Fashions operated over 700 Brooks and/or Brooks Fashions stores located throughout the United States. Brooks Fashion Stores has since acquired U.S. Reg. No. 1,359,832 for BROOKS FASHIONS for retail women's apparel store services. The registration issued on September 10, 1985, and is now incontestable.

In the Brooks Fashion case, the Court noted that both parties had been using the surname "BROOKS" either alone or in combination with other words. The Court also noted that others were using BROOKS combination marks. We have established that not only does BBI use and own registrations for BROOKS combination marks, but that there are many class 24 and 25 BROOKS registrations in the name of a several companies including Maxi Drug and Brooks Fashion Stores, Inc.

We are annexing hereto a summary of BBI's BROOKS BROTHERS and BROOKS combination registrations and applications showing the status thereof. We

have only included registrations or applications that have been allowed. We are also enclosing representative BROOKS registrations in the name of BBI as well as representative third parties. The several registrations demonstrate that the PTO has determined that BROOKS and BROOKS combination marks are registrable over prior BROOKS and BROOKS combination marks even where the goods are in part identical and in part substantially related. It is noted that the third party registrations are limited to Class 25. If we were to include Class 18 goods (luggage and the like are closely related to clothing), or Class 35 (retail store services are closely related to clothing), the number of relevant third party registrations and applications would increase significantly.

According to Pro CD Phone Disc (1996 Edition), there are approximately 7,300 firms in the United States which have business titles beginning with BROOKS. When one limits the scope of the search to women's clothing stores, one finds business listings for Brooks, Brooks Associates, Brooks Colony, Brooks Fashions, Susan Brooks, Brookside Fashions and others. When family retail clothing stores are considered, one finds hundreds of listings, including many Brooks Fashions stores as were referenced in the D. Brooks litigation cited above.

In addition to USPTO records, Phone Disc records and cited cases, a search of infouel.com, a web based telephone directory, disclosed in excess of 250 companies, the names of which begin with the word "Brooks". More would have been disclosed except for the fact that the search aborted at 250 hits, and the limitation could not be overridden.

A search of Network Solutions "Whols" database of domains beginning with the word "Brooks" disclosed so many citations that the search automatically aborted.

A search of "Brooks, clothing" in google.com disclosed up to 100,000 "brooks" hits including Brooks Brothers, Brooks Feast, Brooks Clothing, David Brooks, Victoria Brooks, Donald Brooks, Ivy Brooks, Brooks Clothing, Brooks Fashion Stores, etc. Representative search page results are submitted herewith.

Clearly, "brooks" is widely used and widely registered for a wide range of goods and services, including clothing and closely related goods and services. In part, the reason may have to do with the fact that "Brooks" is within the top 100 most common surnames in the United States along with Baker, Davis, Cook, Smith and others - a page from the Internet site entitled Top 100 Surnames is annexed.

For whatever the reason, BROOKS is widely used and widely registered. As such, minor differences in marks/goods renders a BROOKS combination mark registerable. As neither our search nor the search of the Trademark Examining Attorney disclosed any registrations or applications for BROOKSBOYS, Applicant's mark should proceed onto publication.

The widespread use of BROOKS suggests that purchasers have been conditioned to look for other elements of the mark as a means of distinguishing the source of the goods or services in the field - see In re Broadway Chicken Inc., 38 USPQ2d 1559 (TTAB 1996). In Broadway Chicken, the Board relied upon search reports, telephone listings, and a variety of other sources to determine that the contemporary use of BROADWAY CHICKEN and BROADWAY PIZZA is not likely to lead to confusion. The Board considered the differences in the marks, the significance of "BROADWAY", evidence of widespread third party use of tradename/mark and determine that the same are sufficient in an ex parte proceeding to persuade the Board

that no confusion would be likely to result from the simultaneous use of the marks in issue. The same principle should be applied in this case.

In Steve's Ice Cream Inc. v. Steve's Famous Hot Dogs, 3 USPQ2d 1477 (TTAB 1987), the Trademark Trial and Appeal Board held that STEVE'S for ice cream and STEVE'S and design for restaurant's featuring hot dogs were, when considered in their entireties, readily distinguishable. The Board noted that although "STEVE'S" is not an inherently weak mark, "the numerous third-party uses demonstrated that the purchasing public has become conditioned to recognize that many businesses in the restaurant and food store fields use the term, or something closely related to it, and that this purchasing public is able to distinguish between these businesses based on small distinctions among the marks." In Steve's, electronic classified phone directories were introduced which disclosed a total of 226 businesses. In this case we have shown many more BROOKS listings.

In the Steve's case, the marks were indistinguishable. In the present application, the marks are not only distinguishable, but BBI's mark is unusual in that it is one word and as such is an intentional misspelling.

While third party marks are not evidence regarding the lack of confusing similarity, the same are good evidence go show why a mark has been adopted. In that regard, see Shoe Corp. of America v. Juvenile Shoe Corp., 121 USPQ 510 (CCPA 1959) wherein the Court of Customs and Patent Appeals held:

We regard the registrations only as evidence that five other concerns have considered five other marks, each of which contains "Lazy" as its initial word, to be appropriate as trademarks for shoes.

The Registration of five such marks scarcely be attributed to mere coincidence, but affords definite evidence that the word "Lazy" has a suggestive significance as applied to shoes and hence would be taken primarily as describing or suggesting some quality of shoes rather than as pointing to their origin.

In Shoe Corp., case, five third party registrations were considered sufficient to render LAZY "weak" so as to limit the scope of protection.

Further, the fact that the applicant's mark and the cited mark have in common BROOKS is not determinative. In Royal Petroleum Corporation v. River States Oil Company v. Union Oil Company of California, 136 USPQ 79 (TTAB 1962) the Board specifically held that "it has been consistently held that trademarks will not ordinarily be held confusingly similar because each of them includes a word of that type" (suggestive as opposed to arbitrary). As a result, the Board allowed

- (1) Applicant Petroleum a registration for ROYAL for gasoline;
- (2) Applicant Union a registration for ROYAL 76 for gasoline;
- (3) Applicant River a registration for ROYAL with a background "RS" for gasolines;
- (4) Applicant River a registration for ROYAL LUBE for lubricating oil.

Obviously, only minor differences were required to avoid confusion. In this case, the cumulative differences are greater than what existed in the Royal case. Here the marks are clearly distinguishable. Applicant's mark is a variation of the BROOKS marks it has used and registered for years, both before and after the cited registrations issued. Accordingly, it is respectfully submitted that confusion is unlikely.

In In re Dayco Products-Eaglemotive Inc., 9 USPQ2d 1910 (TTAB 1988) the Board addresses the issue of weakness based on third party registrations as follows:

While the Examining Attorney is correct in his assertion that these third party registrations are of limited probative value, they are useful to demonstrate the sense in which a term is used in ordinary parlance and they can show that a particular term has been adopted by those engaged in a certain field or industry and that said term has less than arbitrary significance with respect to certain goods or services. See; Sams, Third Party Registrations in TTAB Proceedings, 72 TMR 297 (May-June, 1982).

In our view, the submission of the third party registrations is probative to demonstrate that "IMPERIAL" has been adopted by others in the vehicular field to refer to that term's ordinary significance as a laudatory designation. See: Webster's Third New International Dictionary (1976) which defines "imperial," inter alia, as "of superior or unusual size or excellence." As such, we find the term to be a relatively weak mark and we agree with applicant that the scope of protection afforded such a mark is considerably narrower than that afforded a more arbitrary designation. Compare: In re Eldorado Motor Corp. 6 USPQ2d 1732 (TTAB 1988) and cases cited therein. We think the weakness of the marks involved herein is a significant factor and serves, in this case, to "tip the scales" in favor of a finding of no likelihood of confusion.

Decision: The refusal of registration is reversed and the mark will be published for opposition in due course.

In re Martin's Famous Pastry Shoppe, Inc., 223 USPQ 1289 (F.Cir. 1984) was an appeal from In re Martin's Famous Pastry Shoppe, Inc., 221 USPQ 364, 367 (TTAB 1984), wherein the Board found that the mark MARTIN'S FAMOUS PASTRY SHOPPE INC. for bakery goods was registrable over MARTIN'S for cheese. The Board noted that the goods were so closely related that purchasers would assume that they would come from a common source if the marks were confusingly similar. While MARTIN'S v. MARTIN'S were found to be confusingly similar as applied to closely related goods, MARTIN'S v. MARTIN'S FAMOUS PASTRY SHOPPE INC. were not found to be confusingly similar as applied to the same goods. In the latter case, "FAMOUS

PASTRY SHOPPE INC." was disclaimed but nevertheless considered by the Board in determining the overall commercial impression of the mark. The Federal Circuit Court of Appeals affirmed the ruling of the Board. In other words, as pointed out in In re Martin's, a disclaimed descriptive portion (in this case the descriptive suffix) of a mark should be considered when determining the likelihood of confusion, particularly where the common portion is laudatory and weak as in this case.

In re Martin's is particularly instructive because:

1. MARTIN'S is a surname as is BROOKS;
2. the goods are closely related; and
3. nothing more than descriptive matter was held sufficient to distinguish

the marks.

In In re British Bulldog, Ltd., 224 USPQ 854 (TTAB 1984) the Board reversed the refusal to register and allowed PLAYERS for underwear to be allowed over a prior registration for PLAYERS for shoes. The Board rejected what it called a "per se" rule to the effect that the use of the same or similar marks on different items of wearing apparel was likely to cause confusion. The Board specifically held at p. 856:

In more recent years, however, the Board and its reviewing tribunal, the Court of Customs and Patent Appeals (now merged into the Court of Appeals for the Federal Circuit), have backed away from the application of such "per se" rules, emphasizing instead that each case must be decided on its own particular facts and circumstances. See, for example: Interstate Brands Corp. V. Celestial Seasonings, Inc., 196 USPQ 321 (TTAB 1977), affirmed 576 F.2d 926, 198 USPQ 151 (CCPA 1978); In re E.I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973); Harry Fischer Corp. v. Kenneth Knits, Inc., 207 USPQ 1019 (TTAB 1980); and In re Skydel Lingerie Co., Ltd., 197 USPQ 629 (TTAB 1977).

The marks herein are different in look, sound and meaning. An additional consideration is that the mark sought to be registered, BROOKSOYS, is similar to Applicant's primary mark and name, BROOKS BROTHERS, in that they both include a familial term used in association with "BROOKS". None of the marks cited against the application in issue share this element.

To the extent there are any similarities, that has to do with the common use of weak elements. As held by the Board in Bost Bakery v. Roland Industries, Inc., 216 USPQ 799 (TTAB 1982) at page 891:

Moreover, the principle that similarity between the marks in meaning or commercial significance alone may be sufficient to create a likelihood of confusion is applicable primarily to situations where marks are coined or arbitrary rather than highly suggestive in cast. Penn Dairies, Inc. v. Pennsylvania Agricultural Cooperative Marketing Assn., 200 USPQ 462 (TTAB 1978) ("PENN BEST" and "PENSURPREME" held not confusing for, among other things, soft drinks); In re Haddock, 181 USPQ 796 (TTAB 1974) ("MINI-BASS" and "LIL' BASS" held not confusing for fish lures); Sure-Fit Products, Co. v. Saltzson Drapery Co., 117 USPQ 295 (CCPA 1958) "RITE-FIT" and "SURE-FIT" held not confusing for slip covers).

As explained in Sure-Fit Products Co. v. Saltzson Drapery Co., 117 USPQ 295, 297 (CCPA 1958) :

It seems both logical and obvious to us that where a party chooses a trademark which is inherently weak, he will not enjoy the wide latitude of protection afforded the owners of strong trademarks. Where a party uses a weak mark, his competitors may come closer to his mark than would be the case with a strong mark without violating his rights. The essence of all we have said is that in the former case there is not the possibility of confusion that exists in the latter case.

Exhibit J

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO. 78/053283		APPLICANT Brooks Brothers, Inc.		PAPER NO.
MARK BROOKS SHIRTS				
ADDRESS Stephen L. Baker Baker & Rannells P. O. Box 672 359 East Main Street Somerville NJ 08876		ACTION NO. 02	MAILING DATE 04/02/02	ADDRESS: Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 www.uspto.gov
		REF. NO.		
FORM PTO-1525 (5-90)		U.S. DEPT. OF COMM. & TM OFFICE		If no fees are enclosed, the address should include the words "Box Responses - No Fee."
				Please provide in all correspondence:
				1. Filing Date, serial number, mark and Applicant's name. 2. Mailing date of this Office action. 3. Examining Attorney's name and Law Office number. 4. Your telephone number and ZIP code.

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT.

For your convenience and to ensure proper handling of your response, a label has been enclosed

For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.

RE: Serial Number: 78/053283

This letter responds to the applicant's communication filed on January 25, 2002.

The amendment to the identification of goods has been accepted and made of record. The requirement for a disclaimer of the term "shirts" is continued.

The refusal under Section 2(d) based upon Registration Nos. 1161034, 1213324, 1319454, 1359832, and 1683840 is maintained.

Registration Nos. 1777883 and 1360549 have been withdrawn as bars to registration.

Application Serial No. 75/932902. has matured into a registration. Therefore, registration is refused as follows.

Likelihood of Confusion

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the applicant's mark, when used on or in connection with the identified goods, so resembles the mark in U.S. Registration No. 2521124, as to be likely to cause confusion, to cause mistake, or to deceive. TMEP section 1207. See the enclosed registration.

78/053283

-2-

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973).

The test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison. The issue is whether the marks create the same overall impression. *Visual Information Institute, Inc. v. Vicon Industries Inc.*, 209 USPQ 179 (TTAB 1980). The focus is on the recollection of the average purchaser who normally retains a general rather than specific impression of trademarks. *Chemetron Corp. v. Morris Coupling & Clamp Co.*, 203 USPQ 537 (TTAB 1979); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106 (TTAB 1975); TMEP section 1207.01(b).

The examining attorney must look at the marks in their entireties under Section 2(d). Nevertheless, one feature of a mark may be recognized as more significant in creating a commercial impression. Greater weight is given to that dominant feature in determining whether there is a likelihood of confusion. *In re National Data Corp.*, 224 USPQ 749 (Fed. Cir. 1985); *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 189 USPQ 693 (C.C.P.A. 1976). *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1988). TMEP §1207.01(b)(viii).

The applicant's mark is BROOKS SHIRTS. The registered mark is BROOKS and Design. The marks are substantially similar in appearance and commercial impression. The dominant portion of the marks is the term "BROOKS" it is this term that consumers are most likely to recall when asking for the goods.

Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

The applicant's goods are "clothing, namely, shirts, tops, sweaters, outer shirts including evening, dress, polo, and sports shirts". The registrant's goods are "clothing, namely shoes, boots, slippers, socks, footwear, shirts, pants, jackets, hats, caps, shorts, tights, hosiery, jogging suits, gloves, sweat pants, sweat suits, sweat shirts, warm up suits, headwear, head bands, T-shirts, skirts, leggings, unitards, wind resistant jackets, belts, rainwear, insoles, vests, waterproof jackets, waterproof pants, waterproof vests, sweaters, track suits, tank tops, turtle necks, trousers, jerseys, visors, and wrist bands". The goods are closely related, namely, they are all clothing items. Therefore, the examining attorney must assume that the registrant's goods and the applicant's goods are sold everywhere that is normal for such items, such as clothing and department stores. Further, the examining attorney must assume that the same classes of purchasers shop for these items and that consumers are accustomed to seeing them sold under the same or similar marks.

Because the marks are substantially similar and the goods are closely related, the similarities among the marks and the goods are so great as to create a likelihood of confusion among consumers as to the source of the goods. The examining attorney must resolve any doubt regarding a likelihood of confusion in favor of the prior registrant. *In re Hyper Shoppers (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir., 1988).

78/053283

-3-

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following issues.

Disclaimer

The applicant must disclaim the descriptive wording "SHIRTS" apart from the mark as shown, because the wording is merely descriptive of the applicant's goods. Trademark Act Section 6, 15 U.S.C. Section 1056; TMEP sections 1213 and 1213.02(a).

Trademark Act Section 6(a), 15 U.S.C. Section 1056(a), states that the Commissioner may require the applicant to disclaim an unregistrable component of a mark. Trademark Act Section 2(e), 15 U.S.C. Section 1052(e), bars the registration of a mark which is merely descriptive or deceptively misdescriptive, or primarily geographically descriptive of the goods. Therefore, the Commissioner may require the disclaimer of a portion of a mark which, when used in connection with the goods or services, is merely descriptive or deceptively misdescriptive, or primarily geographically descriptive. If an applicant does not comply with a disclaimer requirement, the examining attorney may refuse registration of the entire mark TMEP section 1213.01(b).

The computerized printing format for the *Trademark Official Gazette* requires a standard form for a disclaimer. TMEP section 1213.09(a)(i). A properly worded disclaimer should read as follows:

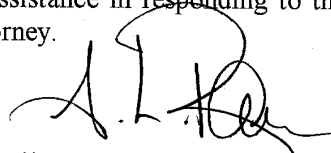
No claim is made to the exclusive right to use "SHIRTS" apart from the mark as shown.

See In re Owatonna Tool Co., 231 USPQ 493 (Comm'r Pats. 1983).

Response to Office Action

Please note: If the applicant submits a response via email, an electronic signature is required. An applicant, registrant or attorney may sign an e-mail communication by entering a "symbol" that he or she has adopted as a signature between two slashes. In addition, the Office will accept an e-mail communication containing the "/s/" ("/(signature)") notation in lieu of a signature. A scanned image of a document signed in ink is also acceptable, as long as the image is attached in .jpg or .gif format. TMEP Section 304.08

If the applicant has any questions or needs assistance in responding to the Office action, please telephone or email the assigned examining attorney.



April Lueders Rademacher
Examining Attorney
Law Office 102
(703) 308-9102 x206
(703) 872-9166 (fax)
april.rademacher@uspto.gov

78/053283

-4-

NOTICE FOR APPLICANTS FILING IN INTERNATIONAL CLASS 42

Effective January 1, 2002, the 8th edition of the Nice Agreement governing the classification of goods and services divided prior International Class 42 into four service mark classes. Information about revised International Class 42 and new International Classes 43, 44, and 45 is available at www.uspto.gov/web/offices/tac/notices/notices.htm.

All applications filed on or after January 1, 2002, must comply with the new classification schedule. For applications filed *before* January 1, 2002, the new classification schedule is optional. Applicants opting to amend to the new schedule must advise the assigned Examining Attorney.

*** User: alueders *** Serial Number: 75932902 *** 4/1/02 3:37:51 PM ***



Mark

BROOKS

Goods and Services

IC 025. US 022 039. G & S: Clothing, namely shoes, boots, slippers, socks, footwear, shirts, pants, jackets, hats, caps, shorts, tights, hosiery, jogging suits, gloves, sweat pants, sweat suits, sweat shirts, warm up suits, headwear, head bands, T-shirts, skirts, leggings, unitards, wind resistant jackets, belts, rainwear, insoles, vests, waterproof jackets, waterproof pants, waterproof vests, sweaters, track suits, tank tops, turtle necks, trousers, jerseys, visors, and wrist bands. FIRST USE: 20000100. FIRST USE IN COMMERCE: 20000200

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code
260303 260321

Serial Number
75932902

Filing Date
March 2, 2000

Filed ITU
FILED AS ITU

Publication for Opposition Date
December 19, 2000

Registration Number
2521124

Registration Date
December 18, 2001

Owner Name and Address
(REGISTRANT) Brooks Sports, Inc. CORPORATION WASHINGTON 19820 North Creek
Parkway Suite 200 Bothell WASHINGTON 98011

*** Search: 2 *** Document Number: 1 ***

(cont)

*** User: alueders *** Serial Number: 75932902 ***

Description of Mark

The mark consists of the word "BROOKS" and a Chevron design within an oval.

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Robert G. Woolston

*** Search: 2 *** Document Number: 1 ***

20102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK LAW OFFICE 102
SERIAL NUMBER: 78/053,283
MARK: BROOKS SHIRTS

APPLICANT: Brooks Brothers, Inc.
FILED: March 15, 2001

Assistant Commissioner
for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513



01-25-2002

U.S. Patent & TMOfo/TM Mail Rpt Dt. #73

2A

Attn: April Lueders Rademacher, Trademark Examining Attorney, Law Office 102

Responsive to the Office Action of July 24, 2001:

INFORMALITIES OF RECORD

Before dealing with the 2(d) rejection, Applicant will deal with the informalities of record. In the identification of goods/services, please delete all goods/services not falling into International Class 25. With regard to the Class 25 goods, please amend the same to read:

(Clothing, namely, shirts, tops, sweaters, outer shirts including evening, dress, polo, and sports shirts, in Class 25)

T.M.E.O.
LAW OFFICE 102
2007 JAN 29 1 P
T.M.O.

While a number of issues were raised regarding the informalities of record, have been resolved by Applicant limiting the application to a single class.

THE 2(d) REJECTION

Applicant has applied to register BROOKS SHIRTS for a wide variety of clothing. The application has been rejected on a series of BROOKS applications and registrations, all in the name of the successor-in-interest to Brooks Shoe Manufacturing company, Inc. Reconsideration is thought to be in order.

Applicant is Brooks Brothers, Inc., ("BBI"), the owner and operator of the world famous Brooks Brothers retail clothing outlets. BBI, on its own and through its predecessors-in-interest, has used BROOKS BROTHERS and BROOKS combination marks since at least as early as 1818. It is the owner of no less than 25 BROOKS BROTHERS registrations in the United States, as well as 25 BROOKS combination marks. The BROOKS combination marks (with the exception of BROOKS BROTHERS) are comprised of the word BROOKS with a descriptive term such as "AIRE", "BLEND", "CLOTH", "STRETCH", "SUEDE", "WEAVE", "BONUS" and the like. Several of BBI's BROOKS combination marks are registered, incontestable, and are for clothing or fabric in International Class 25 or fabric to be made into clothing in International Class 24. For example, U.S. Reg. No. 1,354,158 for BROOKS-BLEND is dated August 13, 1985. The registration, is incontestable and is for fabrics to be made into clothing. Insofar as BBI's more recent BROOKS combination marks are concerned, Applicant is the owner of U.S. Reg. No. 2,498,929 for BROOKS STRETCH for a wide variety of clothing. The BROOKS STRETCH registration issued on October 16, 2001.

The earliest of the Brooks Shoe registration (1,161,034) issued July 14, 1981. At that time, and in addition to BBI'S BROOKS BROTHERS registration, BBI was the owner of the following BROOKS incontestable combination marks: Reg. Nos. 781,452 for BROOKSTWEED dated December 8, 1964 for men's and boy's clothing - namely sports jackets, top coats and over coats; 585,767 for BROOKSWEAVE dated February 16, 1954 for clothing; 1,007,938 for BROOKSGATE dated April 1, 1975 for clothing; 840,920 for BROOKSEASE dated December 19, 1967 for clothing.

Subsequent to the earliest Brooks Shoe registration, BBI was issued now incontestable Reg. Nos. 1,432,985 for BROOKS LISLE dated March 7, 1987 for fabric for use in the manufacturing of clothing; 1,291,279 for BROOKSUEDE dated August 21, 1984 for clothing; and 1,905,025 for BROOKSCLOTH SHIRT COLLECTION dated July 11, 1995 for shirts. More recently Applicant's applications for BROOKS BROTHERS PERFORMANCE, BROOKS BASICS and BROOKS JR. have been allowed while the subject application has been rejected.

In addition to BBI, and the successors-in-interest to Brooks Shoe Manufacturing Co., Inc., there are in excess of 100 registrations and pending applications for BROOKS and BROOKS combination marks in Classes 24 and 25 in the name of unrelated third parties. For example, U.S. Reg. No. 2,229,999 issued March 9, 1999, for BROOKS for clothing, namely briefs and undergarments to Maxi Drug, Inc., and U.S. Reg. No. 1,342,765 issued April 9, 1985, for BROOKS for leather clothing to Brooks Leather Sportswear, Inc., companies unrelated to any of the prior registrants, including BBI and the successors-in-interest to Brooks Shoe Manufacturing Co., inc. If BROOKS for undergarments is entitled to be registered over the BROOKS registrations cited by the Trademark Examining Attorney, then Applicant's BROOKS combination mark is entitled to at least be published.

In D. Brooks Limited v. Brooks Fashion Stores, Inc., 1 USPQ2d 1128 (DC COLO 1986), a Federal District Court in Colorado found BROOKS for women's apparel not to be confusingly similar to BROOKS FASHIONS for essentially the same goods. In reaching its decision, the Court noted that there were several other users of the BROOKS mark including Brooks Brothers (the Applicant herein), Donald Brooks,

Bobbie Brooks, Stevie Brooks as well as the defendant Brooks Fashions. In its findings of fact, the Court noted that Brooks Fashions operated over 700 Brooks and/or Brooks Fashions stores located throughout the United States. Brooks Fashion Stores has since acquired U.S. Reg. No. 1,359,832 for BROOKS FASHIONS for retail women's apparel store services. The registration issued on September 10, 1985, and is now incontestable.

In the Brooks Fashion case, the Court noted that both parties had been using the surname "BROOKS" either alone or in combination with other words. The Court also noted that others were using BROOKS combination marks. We have established that not only does BBI use and own registrations for BROOKS combination marks, but that there are many class 24 and 25 BROOKS registrations in the name of a several companies including Maxi Drug and Brooks Fashion Stores, Inc.

We are annexing hereto a summary of BBI's BROOKS BROTHERS and BROOKS combination registrations and applications showing the status thereof. We have only included registrations or applications that have been allowed. We are also enclosing representative BROOKS registrations in the name of BBI as well as representative third parties. The several registrations demonstrate that the PTO has determined that BROOKS and BROOKS combination marks are registrable over prior BROOKS and BROOKS combination marks even where the goods are in part identical and in part substantially related. It is noted that the third party registrations are limited to Class 25. If we were to include Class 18 goods (luggage and the like are closely related to clothing), or Class 35 (retail store services are closely related to clothing), the number of relevant third party registrations and applications would increase significantly.

According to Pro CD Phone Disc (1996 Edition), there are approximately 7,300 firms in the United States which have business titles beginning with BROOKS. When one limits the scope of the search to women's clothing stores, one finds business listings for Brooks, Brooks Associates, Brooks Colony, Brooks Fashions, Susan Brooks, Brookside Fashions and others. When family retail clothing stores are considered, one finds hundreds of listings, including many Brooks Fashions stores as were referenced in the D. Brooks litigation cited above.

In addition to USPTO records, Phone Disc records and cited cases, a search of infouel.com, a web based telephone directory, disclosed in excess of 250 companies, the names of which begin with the word "Brooks". More would have been disclosed except for the fact that the search aborted at 250 hits, and the limitation could not be overridden.

A search of Network Solutions "Whois" database of domains beginning with the word "Brooks" disclosed so many citations that the search automatically aborted.

A search of "Brooks, clothing" in google.com disclosed up to 100,000 "brooks" hits including Brooks Brothers, Brooks Feast, Brooks Clothing, David Brooks, Victoria Brooks, Donald Brooks, Ivy Brooks, Brooks Clothing, Brooks Fashion Stores, etc. Representative search page results are submitted herewith.

Clearly, "brooks" is widely used and widely registered for a wide range of goods and services, including clothing and closely related goods and services. In part, the reason may have to do with the fact that "Brooks" is within the top 100 most common surnames in the United States along with Baker, Davis, Cook, Smith and others - a page from the Internet site entitled Top 100 Surnames is annexed.

For whatever the reason, BROOKS is widely used and widely registered. As such, minor differences in marks/goods renders a BROOKS combination mark registerable. As neither our search nor the search of the Trademark Examining Attorney disclosed any registrations or applications for BROOKS SHIRTS, Applicant's mark should proceed onto publication.

The widespread use of BROOKS suggests that purchasers have been conditioned to look for other elements of the mark as a means of distinguishing the source of the goods or services in the field - see In re Broadway Chicken Inc., 38 USPQ2d 1559 (TTAB 1996). In Broadway Chicken, the Board relied upon search reports, telephone listings, and a variety of other sources to determine that the contemporary use of BROADWAY CHICKEN and BROADWAY PIZZA is not likely to lead to confusion. The Board considered the differences in the marks, the significance of "BROADWAY", evidence of widespread third party use of tradename/mark and determine that the same are sufficient in an ex parte proceeding to persuade the Board that no confusion would be likely to result from the simultaneous use of the marks in issue. The same principle should be applied in this case.

In Steve's Ice Cream Inc. v. Steve's Famous Hot Dogs, 3 USPQ2d 1477 (TTAB 1987), the Trademark Trial and Appeal Board held that STEVE'S for ice cream and STEVE'S and design for restaurant's featuring hot dogs were, when considered in their entireties, readily distinguishable. The Board noted that although "STEVE'S" is not an inherently weak mark, "the numerous third-party uses demonstrated that the purchasing public has become conditioned to recognize that many businesses in the restaurant and food store fields use the term, or something closely related to it, and that this purchasing

public is able to distinguish between these businesses based on small distinctions among the marks.” In Steve's, electronic classified phone directories were introduced which disclosed a total of 226 businesses. In this case we have shown many more BROOKS listings.

In the Steve's case, the marks were indistinguishable. In the present application, the marks are not only distinguishable, but BBI's mark is unusual in that it is one word and as such is an intentional misspelling.

While third party marks are not evidence regarding the lack of confusing similarity, the same are good evidence go show why a mark has been adopted. In that regard, see Shoe Corp. of America v. Juvenile Shoe Corp., 121 USPQ 510 (CCPA 1959) wherein the Court of Customs and Patent Appeals held:

We regard the registrations only as evidence that five other concerns have considered five other marks, each of which contains “Lazy” as its initial word, to be appropriate as trademarks for shoes.

The Registration of five such marks scarcely be attributed to mere coincidence, but affords definite evidence that the word “Lazy” has a suggestive significance as applied to shoes and hence would be taken primarily as describing or suggesting some quality of shoes rather than as pointing to their origin.

In Shoe Corp., case, five third party registrations were considered sufficient to render LAZY “weak” so as to limit the scope of protection.

Further, the fact that the Applicant’s mark and the cited mark have in common BROOKS is not determinative. In Royal Petroleum Corporation v. River States Oil Company v. Union Oil Company of California, 136 USPQ 79 (TTAB 1962) the Board specifically held that “it has been consistently held that trademarks will not ordinarily be

held confusingly similar because each of them includes a word of that type" (suggestive as opposed to arbitrary). As a result, the Board allowed

- (1) Applicant Petroleum a registration for ROYAL for gasoline;
- (2) Applicant Union a registration for ROYAL 76 for gasoline;
- (3) Applicant River a registration for ROYAL with a background "RS" for gasolines;
- (4) Applicant River a registration for ROYAL LUBE for lubricating oil.

Obviously, only minor differences were required to avoid confusion. In this case, the cumulative differences are greater than what existed in the Royal case. Here the marks are clearly distinguishable. Applicant's mark is a variation of the BROOKS marks it has used and registered for years, both before and after the cited registrations issued. Accordingly, it is respectfully submitted that confusion is unlikely.

In In re Dayco Products-Eaglemotive Inc., 9 USPQ2d 1910 (TTAB 1988) the Board addresses the issue of weakness based on third party registrations as follows:

While the Examining Attorney is correct in his assertion that these third party registrations are of limited probative value, they are useful to demonstrate the sense in which a term is used in ordinary parlance and they can show that a particular term has been adopted by those engaged in a certain field or industry and that said term has less than arbitrary significance with respect to certain goods or services. See; Sams, Third Party Registrations in TTAB Proceedings, 72 TMR 297 (May-June, 1982).

In our view, the submission of the third party registrations is probative to demonstrate that "IMPERIAL" has been adopted by others in the vehicular field to refer to that term's ordinary significance as a laudatory designation. See: Webster's Third New International Dictionary (1976) which defines "imperial," inter alia, as "of superior or unusual size or excellence." As such, we find the term to be a relatively weak mark and we agree with applicant that the scope of protection afforded such a mark is considerably narrower than that afforded a more

arbitrary designation. Compare: *In re Eldorado Motor Corp.* 6 USPQ2d 1732 (TTAB 1988) and cases cited therein. We think the weakness of the marks involved herein is a significant factor and serves, in this case, to "tip the scales" in favor of a finding of no likelihood of confusion.

Decision: The refusal of registration is reversed and the mark will be published for opposition in due course.

In re Martin's Famous Pastry Shoppe, Inc., 223 USPQ 1289 (F.Cir. 1984) was an appeal from In re Martin's Famous Pastry Shoppe, Inc., 221 USPQ 364, 367 (TTAB 1984), wherein the Board found that the mark MARTIN'S FAMOUS PASTRY SHOPPE INC. for bakery goods was registrable over MARTIN'S for cheese. The Board noted that the goods were so closely related that purchasers would assume that they would come from a common source if the marks were confusingly similar. While MARTIN'S v. MARTIN'S were found to be confusingly similar as applied to closely related goods, MARTIN'S v. MARTIN'S FAMOUS PASTRY SHOPPE INC. were not found to be confusingly similar as applied to the same goods. In the latter case, "FAMOUS PASTRY SHOPPE INC." was disclaimed but nevertheless considered by the Board in determining the overall commercial impression of the mark. The Federal Circuit Court of Appeals affirmed the ruling of the Board. In other words, as pointed out in In re Martin's, a disclaimed descriptive portion (in this case the descriptive suffix) of a mark should be considered when determining the likelihood of confusion, particularly where the common portion is laudatory and weak as in this case.

In re Martin's is particularly instructive because:

1. MARTIN'S is a surname as is BROOKS;
2. the goods are closely related; and

3. nothing more than descriptive matter was held sufficient is distinguish the marks.

In In re British Bulldog, Ltd., 224 USPQ 854 (TTAB 1984) the Board reversed the refusal to register and allowed PLAYERS for underwear to be allowed over a prior registration for PLAYERS for shoes. The Board rejected what it called a “per se” rule to the effect that the use of the same or similar marks on different items of wearing apparel was likely to cause confusion. The Board specifically held at p. 856:

In more recent years, however, the Board and its reviewing tribunal, the Court of Customs and Patent Appeals (now merged into the Court of Appeals for the Federal Circuit), have backed away from the application of such “per se” rules, emphasizing instead that each case must be decided on its own particular facts and circumstances. See, for example: Interstate Brands Corp. V. Celestial Seasonings, Inc., 196 USPQ 321 (TTAB 1977), affirmed 576 F.2d 926, 198 USPQ 151 (CCPA 1978); In re E.I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973); Harry Fischer Corp. v. Kenneth Knits, Inc., 207 USPQ 1019 (TTAB 1980); and In re Skydel Lingerie Co., Ltd., 197 USPQ 629 (TTAB 1977).

The marks herein are different in look, sound and meaning. To the extent there are any similarities, that has to do with the common use of weak elements. As held by the Board in Bost Bakery v. Roland Industries, Inc., 216 USPQ 799 (TTAB 1982) at page 891:

Moreover, the principle that similarity between the marks in meaning or commercial significance alone may be sufficient to create a likelihood of confusion is applicable primarily to situations where marks are coined or arbitrary rather than highly suggestive in cast. Penn Dairies, Inc. v. Pennsylvania Agricultural Cooperative Marketing Assn., 200 USPQ 462 (TTAB 1978) (“PENN BEST” and “PENSURPREME” held not confusing for, among other things, soft drinks); In re Haddock, 181 USPQ 796 (TTAB 1974) (“MINI-BASS” and “LIL’ BASS” held not confusing for fish lures); Sure-Fit Products, Co. v. Saltzson

Drapery Co., 117 USPQ 295 (CCPA 1958) "RITE-FIT" and "SURE-FIT" held not confusing for slip covers).

As explained in Sure-Fit Products Co. v. Saltzson Drapery Co., 117 USPQ 295, 297 (CCPA 1958) :

It seems both logical and obvious to us that where a party chooses a trademark which is inherently weak, he will not enjoy the wide latitude of protection afforded the owners of strong trademarks. Where a party uses a weak mark, his competitors may come closer to his mark than would be the case with a strong mark without violating his rights. The essence of all we have said is that in the former case there is not the possibility of confusion that exists in the latter case.

It might be a different story if Applicant were seeking to register BROOKS alone. However, it is not. It is seeking to register a variation of the widely used BROOKS designation just as it and 100's of others have done.

Allowance is thought to be in order.

Respectfully submitted,



Stephen L. Baker
Attorney for Applicant
Baker & Rannells
626 North Thompson Street
Raritan, New Jersey 08869
(908) 722-5640
doc:brooks.shirts/responses

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202.

January 23, 2002
Date of Deposit

Stephen L. Baker
Name of Applicant, Assignee, or
Registered Representative



Signature

January 23, 2002
Date of Signature

Trademark	Company	Country	Registration No.	Effective	Active	Expiration	Product / File Status	Misc / License	Off-Site Box Number
THE SIGN OF THE GOLDEN FLEECE BROOKS BROTHERS AND DESIGN	BBB	USA	640,370 *	1/11/57	7/11/06	1/11/07			
BROOKS BROTHERS ESTABLISHED 1818 AND DESIGN	BBB	USA	404,792 *	12/21/43	6/21/03	12/21/03			
BROOKS BROTHERS PERFORMANCE	BBB	USA	APP 76/024,284	4/12/00			25	Notice of Allowance: 11/20/01 St. Use Due 5/20/02	
BROOKS BROTHERS ESTABLISHED 1818 AND DESIGN	BBB	USA	404,790	12/21/43	6/21/03	12/21/03			
BROOKS BROTHERS ESTABLISHED 1818 AND DESIGN	BBB	USA	404,683	12/14/43	6/14/03	12/14/03	18		
BROOKS BROTHERS ESTABLISHED 1818 AND DESIGN	BBB	USA	404,625	12/7/43	6/7/03	12/7/03			
BROOKS BROTHERS	BBB	USA	1,839,876	6/14/94	12/14/03	6/14/04	9		
BROOKS BROTHERS	BBB	USA	1,835,798	5/10/94	11/10/03	5/10/04	42		
BROOKS BROTHERS	BBB	USA	1,835,478	5/10/94	11/10/03	5/10/04	21		
BROOKS BROTHERS	BBB	USA	1,771,690	5/18/93	11/18/02	5/18/03	30		
BROOKS BROTHERS	BBB	USA	1,750,407	2/2/93	8/2/02	2/2/03	36		
BROOKS BROTHERS	BBB	USA	667,458	9/23/58	3/23/08	9/23/08	25		
BROOKS-BLEND	BBB	USA	1,354,158	8/13/83	2/13/05	8/13/05	24		
BROOKS BASICS	BBB	USA	APP 75/806,137	9/22/99			25	Notice of Allowance: 1/23/01 St. Use Mailed to PTO 7/23/01 St. Use Accepted 11-16-01	
BROOKS-AIRE	BBB	USA	1,033,956	2/17/96	8/17/05	2/17/06	25		
BB 18 BROOKS BROTHERS	BBB	USA	2,185,431	9/1/98	8/1/03	9/1/04	25		
BROOKS BROTHERS (script)	BBB	USA	867,673	4/1/69	10/1/08	4/1/09	3		
BROOKS JR.	BBB	USA	APP 75/806,141	9/22/99			25	Notice of Allowance: 9/6/01 St. Use Due: 3/6/02	
BROOKSWEAVE in script	BBB	USA	585,767	2/16/54	8/16/03	2/16/04			
BROOKSTWEED	BBB	USA	781,452	12/8/64	6/8/04	12/8/04			
BROOKSUEDE	BBB	USA	1,291,279	8/21/84	2/21/04	8/21/04			
BROOKS STRETCH	BBB	USA	2,498,929	10/16/01	10/16/06	10/16/07	25	Issued	

Trademark	Company	Country	Registration No.	Effective	Actual	Expiration	Product / File Status	Misc / License	Off-Site Buy Number
BROOKS LISLE	BBi	USA	1,432,985	3/17/87	9/17/06	3/17/07			
BROOKSGOLF	BBi	USA	APP 75/405,516	12/15/97			25	Notice of Allowance	
BROOKSGATE	BBi	USA	1,007,938	4/1/75	10/1/04	4/1/05	25		
BROOKSEASE	BBi	USA	840,920	12/19/67	6/19/07	12/19/07			
BROOKSCLOTH SHIRT COLLECTION	BBi	USA	1,905,025	7/11/95	6/11/00	7/11/01	25		
BROOKSCLOTH	BBi	USA	1,232,809	3/29/83	9/29/02	3/29/03			
THE BROOKS CARD	BBi	USA	2,498,978	10/16/01	10/16/06	10/16/07	36	Issued	



U.S. Trademark Electronic Search System (TESS)

TESS was last updated on Sat Dec 1 04:27:27 EST 2001

PTO HOME	TRADEMARK	TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DOC	BOTTOM	HELP	PREV LIST
CURR LIST	NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC				

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR **Jump** to record: **Record 132 out of 135**

Check Status (TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)


Bobbie Brooks

Word Mark	BOBBIE BROOKS
Goods and Services	IC 025. US 039. G & S: LADIES' DRESSES, SKIRTS, SWEATERS, COATS, SUITS, BLOUSES, SHIRTS, PLAY SUITS, SLACK SUITS, AND BATHING SUITS. FIRST USE: 19411001. FIRST USE IN COMMERCE: 19411001
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	71626473
Filing Date	March 14, 1952
Registration Number	0571337
Registration Date	March 3, 1953
Owner	(REGISTRANT) RITMOR SPORTSWEAR COMPANY COMPOSED OF MAX REITER AND MAURICE SALTZMAN, BOTH U.S.

It might be a different story if Applicant were seeking to register BROOKS alone. However, it is not. It is seeking to register a variation of the widely used BROOKS designation just as it and 100's of others have done.

Allowance is thought to be in order.

Respectfully submitted,



Stephen L. Baker
Attorney for Applicant
Baker & Rannells
359 East Main Street
Somerville, New Jersey 08876
(908) 722-5640
doc:brooksboys/responses

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202.

12-4-2001
Date of Deposit
Stephen L. Baker
Name of Applicant, Assignee, or
Registered Representative

Signature
12-4-2001
Date of Signature